

_____ BILL NO. _____

INTRODUCED BY _____

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS A 4 PERCENT SALES TAX AND USE TAX THAT EXEMPTS CERTAIN GOODS; PROVIDING FOR THE DISTRIBUTION OF THE SALES AND USE TAXES; ESTABLISHING A CLASSROOM PAYMENT FOR SCHOOL FUNDING; ELIMINATING THE COUNTY EQUALIZATION LEVY FOR ELEMENTARY SCHOOLS; ELIMINATING THE COUNTY EQUALIZATION LEVY FOR HIGH SCHOOLS; REPEALING THE STATE EQUALIZATION AID LEVY; ELIMINATING THE COUNTYWIDE SCHOOL RETIREMENT PROPERTY LEVY AND REPLACING IT WITH STATE FUNDING; ELIMINATING THE COUNTYWIDE TRANSPORTATION PROPERTY TAX LEVY AND REPLACING IT WITH STATE FUNDING; AMENDING SECTIONS 15-1-112, 15-10-420, 15-23-703, 15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-30-140, 15-39-110, 15-68-101, 15-68-102, 15-68-110, 15-68-201, 15-68-202, 15-68-207, 15-68-401, 15-68-402, 15-68-405, 15-68-501, 15-68-502, 15-68-505, 15-68-510, 15-68-801, 17-3-213, 17-7-301, 20-3-106, 20-6-702, 20-7-102, 20-9-141, 20-9-212, 20-9-306, 20-9-308, 20-9-331, 20-9-332, 20-9-333, 20-9-343, 20-9-344, 20-9-347, 20-9-351, 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-439, 20-9-501, 20-9-620, 20-10-144, 20-10-145, 20-10-146, 90-6-309, AND 90-6-403, MCA; REPEALING SECTION 20-9-360, MCA; AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-112, MCA, is amended to read:

"15-1-112. Business equipment tax rate reduction reimbursement to local government taxing jurisdictions. (1) On or before January 1, 1996, for the reduction in payment under subsection (4) and by June 1 of 1996, 1997, and 1998 for all other reimbursements in this section, the department shall determine a reimbursement amount associated with reducing the tax rate in 15-6-138 and provide that information to each county treasurer. The reimbursement amount must be determined for each local government taxing jurisdiction that levied mills on the taxable value of property described in 15-6-138 in the corresponding tax year. However, the reimbursement does not apply to property described in 15-6-138 that has a reduced tax rate under 15-24-1402.

(2) (a) The reimbursement amount to be used as the basis for the payment reduction under subsection

(4) is the product of multiplying the tax year 1995 taxable value of property described in 15-6-138 for each local government taxing jurisdiction by the tax year 1995 mill levy for the jurisdiction and then multiplying by 1/9th.

(b) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1996 is the amount determined under subsection (2)(a) unless the tax year 1996 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.

(ii) If the tax year 1996 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1996 is the result of subtracting the simulated 1996 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the jurisdiction. The simulated 1996 tax for the particular jurisdiction is the actual tax year 1996 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the simulated 1996 tax is greater than the 1995 tax, the reimbursement amount is zero.

(c) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1997 is the amount determined under subsection (2)(a) multiplied by two unless the tax year 1997 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.

(ii) If the tax year 1997 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1997 is the result of subtracting the simulated 1997 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the jurisdiction. The simulated 1997 tax for the particular jurisdiction is the actual tax year 1997 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the simulated 1997 tax is greater than the 1995 tax, the reimbursement amount is zero.

(d) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1998 is the amount determined under subsection (2)(a) multiplied by three unless the tax year 1998 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.

(ii) If the tax year 1998 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1998 is the result of subtracting the simulated 1998 tax

1 from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual
2 taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the
3 jurisdiction. The simulated 1998 tax for the particular jurisdiction is the actual tax year 1998 taxable value of
4 property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the
5 simulated 1998 tax is greater than the 1995 tax, the reimbursement amount is zero.

6 (3) (a) For purposes of this section, "local government taxing jurisdiction" means a local government
7 rather than a state taxing jurisdiction that levied mills against property described in 15-6-138, including county
8 governments, incorporated city and town governments, consolidated county and city governments, tax increment
9 financing districts, local elementary and high school districts, local community college districts, miscellaneous
10 districts, and special districts. The term includes countywide mills levied for equalization of school retirement or
11 transportation.

12 (b) The term does not include county or state school equalization levies provided for in ~~20-9-331,~~
13 ~~20-9-333, 20-9-360,~~ and 20-25-439.

14 (c) Each tax increment financing district must receive the benefit of the state mill on the incremental
15 taxable value of the district.

16 (4) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
17 in June of 1996 by an amount equal to 38% of the reimbursement amount determined under subsection (2)(a)
18 for all of the local government taxing jurisdictions in the county.

19 (5) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
20 in December of 1996 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the
21 local government taxing jurisdictions in the county, as determined by the department under subsection (2).

22 (6) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
23 in June of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local
24 government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for
25 tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department
26 under subsection (2).

27 (7) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
28 in December of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the
29 local government taxing jurisdictions in the county, as determined by the department under subsection (2).

30 (8) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360

in June of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(9) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(10) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1999 by an amount equal to 69% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(11) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of the years 1999 through 2007 by an amount equal to 31% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(12) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of the years 2000 through 2008 by an amount equal to 69% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(13) (a) The reimbursement amount for tax year 1999 and each subsequent tax year for 9 years must be progressively reduced each year by 10% of the reimbursement amount for tax year 1998, according to the following schedule:

Tax Year	Percentage of 1998 Reimbursement Amount
1999	90
2000	80
2001	70
2002	60
2003	50
2004	40
2005	30

1	2006	20
2	2007	10
3	2008 and following years	0

4 (b) The reimbursement amount for each tax year must be the basis for reducing the amount remitted to
5 the state for the levy imposed under 20-9-360 in December of the same year and June of the following year.

6 ~~(14) The county treasurer shall use the funds from the reduced payment to the state for the levy imposed~~
7 ~~under 20-9-360 to reimburse each local government taxing jurisdiction in the amount determined by the~~
8 ~~department under subsection (2). The reimbursement must be distributed to funds within local government taxing~~
9 ~~jurisdictions in the same manner as taxes on property described in 15-6-138 are distributed. The reimbursement~~
10 ~~in June must be distributed based on the prior year's mill levy, and the reimbursement in December must be~~
11 ~~based on the current year's mill levy.~~

12 ~~(15)~~(14) Each local government taxing jurisdiction receiving reimbursements shall consider the amount
13 of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the
14 amount that would otherwise have to be raised by the mill levy.

15 ~~(16)~~(15) A local government taxing jurisdiction that ceases to exist after October 1, 1995, will no longer
16 be considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction that is created
17 after January 1, 1996, will not be considered for revenue loss or reimbursement purposes. If a local government
18 taxing jurisdiction that existed prior to January of 1996 is split between two or more taxing jurisdictions or is
19 annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the
20 revenue loss and reimbursement is attributed to the new jurisdictions."

21

22 **Section 2.** Section 15-10-420, MCA, is amended to read:

23 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
24 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
25 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
26 years. The maximum number of mills that a governmental entity may impose is established by calculating the
27 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
28 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus
29 one-half of the average rate of inflation for the prior 3 years.

30 (b) A governmental entity that does not impose the maximum number of mills authorized under

1 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
2 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority
3 carried forward may be imposed in a subsequent tax year.

4 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
5 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
6 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

7 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
8 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly
9 taxable property.

10 (3) (a) For purposes of this section, newly taxable property includes:

11 (i) annexation of real property and improvements into a taxing unit;

12 (ii) construction, expansion, or remodeling of improvements;

13 (iii) transfer of property into a taxing unit;

14 (iv) subdivision of real property; and

15 (v) transfer of property from tax-exempt to taxable status.

16 (b) Newly taxable property does not include an increase in value that arises because of an increase in
17 the incremental value within a tax increment financing district.

18 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
19 release of taxable value from the incremental taxable value of a tax increment financing district because of:

20 (i) a change in the boundary of a tax increment financing district;

21 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

22 (iii) the termination of a tax increment financing district.

23 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
24 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
25 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
26 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

27 (c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
28 property that results in the property being taxable as class four property or as nonqualified agricultural land as
29 described in 15-6-133(1)(c).

30 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

1 (a) school district levies established in Title 20; or

2 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits
3 excluded under 2-9-212 or 2-18-703.

4 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
5 under 15-6-131 and 15-6-132.

6 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may
7 increase the number of mills to account for a decrease in reimbursements.

8 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
9 of 15-10-107, ~~20-9-331, 20-9-333, 20-9-360~~, 20-25-423, and 20-25-439. However, the number of mills calculated
10 by the department may not exceed the mill levy limits established in those sections. The mill calculation must be
11 established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the
12 calculation must be rounded up to the nearest whole mill.

13 (9) (a) The provisions of subsection (1) do not prevent or restrict:

14 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

15 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

16 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326; or

17 (iv) a levy for the support of a study commission under 7-3-184.

18 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
19 actually assessed in a subsequent year.

20 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
21 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
22 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
23 funds by a county or municipality during that time.

24 (11) The department may adopt rules to implement this section. The rules may include a method for
25 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
26 improvements, or newly taxable property in a governmental unit."

27
28 **Section 3.** Section 15-23-703, MCA, is amended to read:

29 **"15-23-703. Taxation of gross proceeds -- taxable value for county classification and guaranteed**
30 **tax base aid to schools.** (1) The department shall compute from the reported gross proceeds from coal a tax

roll that must be transmitted to the county treasurer on or before September 15 each year. The department may not levy or assess any mills against the reported gross proceeds of coal but shall levy a tax of 5% against the value of the reported gross proceeds as provided in 15-23-701(1)(d). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(2) For county classification and all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

(3) Except as provided in subsection (6), the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.

(4) Except as provided in subsections (5), (6), and (8), the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:

(a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and

(b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as impact aid money, as provided in 20 U.S.C. 7701, et seq., in lieu of levying mills against production, in the same manner that property taxes collected or property taxes that would have been collected would have been distributed in the 1990 school fiscal year in the school district.

(5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3), the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send the excess revenue, excluding any protested coal gross proceeds tax revenue, to the department for redistribution as provided in 15-23-706.

(b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.

(6) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (4)(a), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the

1 county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year
2 1990.

3 (b) If the allocation in subsection (6)(a) exceeds the total budget for a taxing unit, the commissioners may
4 direct the county treasurer to allocate the excess to any taxing unit within the county.

5 (7) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds
6 taxes distributed to the district by the county treasurer under the following conditions:

7 (a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in
8 the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

9 (b) If the allocation under subsection (7)(a) exceeds the total budget for a fund, the trustees may allocate
10 the excess to any budgeted fund of the school district.

11 (8) The county treasurer shall credit all taxes collected under this part from coal mines that began
12 production after December 31, 1988, in the relative proportions required by the levies for state, county, and school
13 district purposes in the same manner as property taxes were distributed in the previous fiscal year."
14

15 **Section 4.** Section 15-24-1402, MCA, is amended to read:

16 **"15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after
17 a construction permit is issued, qualifying improvements or modernized processes that represent new industry
18 or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their
19 taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal
20 percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be
21 taxed at 100% of its taxable value.

22 (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body
23 of the affected county or the incorporated city or town must have approved by separate resolution for each
24 project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for
25 in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until
26 all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

27 (b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but
28 the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

29 (c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or
30 modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The

1 resolution may provide that real property other than land, personal property, improvements, or any combination
2 thereof is eligible for the tax benefits described in subsection (1).

3 (d) Property taxes abated from the reduction in taxable value allowed by this section are subject to
4 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
5 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(c) of this section. The recapture
6 is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided
7 in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The
8 amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts
9 subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this
10 section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary
11 conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body
12 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control
13 of the taxpayer.

14 (3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The
15 application by the taxpayer must first be approved by the governing body of the appropriate local taxing
16 jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the
17 tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the
18 affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

19 (4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed
20 for local high school district and elementary school district purposes and to the number of mills levied and
21 assessed by the governing body approving the benefit over which the governing body has sole discretion. The
22 benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10,
23 ~~20-9-331, 20-9-333, or 20-9-360~~ or otherwise required under state law.

24 (5) Prior to approving the resolution under this section, the governing body shall notify by certified mail
25 all taxing jurisdictions affected by the tax benefit."

26
27 **Section 5.** Section 15-24-1703, MCA, is amended to read:

28 **"15-24-1703. Application of suspension or cancellation.** The suspension or cancellation of delinquent
29 property taxes pursuant to this part:

30 (1) applies to all mills levied in the county or otherwise required under state law, including levies or

assessments required under Title 15, chapter 10, ~~20-9-331, 20-9-333,~~ and 20-25-423;

(2) does not apply to assessments made against property for the payment of bonds issued pursuant to Title 7, chapter 12."

Section 6. Section 15-24-1802, MCA, is amended to read:

"15-24-1802. Business incubator tax exemption -- procedure. (1) A business incubator owned or leased and operated by a local economic development organization is eligible for an exemption from property taxes as provided in this section.

(2) In order to qualify for the tax exemption described in this section, the governing body of the county, consolidated government, incorporated city or town, or school district in which the property is located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that property have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic development organization:

(a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

(b) is engaged in economic development and business assistance work in the area; and

(c) owns or leases and operates or will operate the business incubator.

(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change for the tax exemption provided for in this section.

(4) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies and assessments required under Title 15, chapter 10, ~~20-9-331, or 20-9-333~~ or otherwise required under state law.

(5) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of

1 15-24-1801, this section, or the resolution required by subsection (2) of this section. The recapture is equal to
2 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,
3 during any period in which an abatement under the provisions of this section was in effect. The amount
4 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to
5 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is
6 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
7 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that
8 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."

9
10 **Section 7.** Section 15-24-1902, MCA, is amended to read:

11 **"15-24-1902. Industrial park tax exemption -- procedure -- termination.** (1) An industrial park owned
12 and operated by a local economic development organization or a port authority is eligible for an exemption from
13 property taxes as provided in this section.

14 (2) In order to qualify for the tax exemption described in this section, the governing body of the county,
15 consolidated government, incorporated city or town, or school district in which the property is located shall
16 approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing
17 body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved,
18 the governing body shall do so by a separate resolution for each industrial park in its respective jurisdiction. The
19 governing body may not grant approval for the industrial park until all of the applicant's taxes have been paid in
20 full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall
21 determine that:

22 (a) the local economic development organization:

23 (i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under
24 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

25 (ii) is engaged in economic development and business assistance work in the area; and

26 (iii) owns and operates or will own and operate the industrial development park; or

27 (b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

28 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall
29 make the assessment change for the tax exemption provided for in this section.

30 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and

1 assessed by the governing body approving the exemption over which the governing body has sole discretion.
2 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,
3 the exemption applies to levies or assessments required under Title 15, chapter 10, ~~20-9-331, or 20-9-333~~ or
4 otherwise required under state law.

5 (5) If a local economic development organization sells, leases, or otherwise disposes of the exempt
6 property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state,
7 or local government, the tax exemption provided in this section terminates. The termination of the exemption
8 applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property.
9 Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

10 (6) Property taxes abated from the reduction in property taxes allowed by this section are subject to
11 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
12 15-24-1901, this section, or the resolution required by subsection (2) of this section. The recapture is equal to
13 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,
14 during any period in which an abatement under the provisions of this section was in effect. The amount
15 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to
16 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is
17 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
18 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that
19 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."
20

21 **Section 8.** Section 15-24-2002, MCA, is amended to read:

22 **"15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land
23 owned by a local economic development organization that the local economic development organization intends
24 to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property
25 taxes as provided in this section.

26 (2) In order to qualify for the tax exemption described in this section, the governing body of the affected
27 county, consolidated government, incorporated city or town, or school district in which the building and land are
28 located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The
29 governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing body
30 shall approve a tax exemption by a separate resolution. The governing body may not grant approval for the

1 building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude
2 approval. Prior to holding the hearing, the governing body shall determine that the local economic development
3 organization:

4 (a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from taxation
5 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

6 (b) is engaged in economic development and business assistance work in the area; and

7 (c) owns or will own the building and land.

8 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall
9 make the assessment change for the tax exemption provided for in this section.

10 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
11 assessed by the governing body approving the exemption over which the governing body has sole discretion.
12 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,
13 the exemption applies to levies or assessments required under Title 15, chapter 10, ~~20-9-331, or 20-9-333~~ and
14 other levies required under state law.

15 (5) When a local economic development organization sells, leases, or otherwise disposes of the exempt
16 property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state,
17 or local government, the tax exemption provided in this section terminates. The termination of the exemption
18 applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property.
19 Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

20 (6) Property taxes abated from the reduction in property taxes allowed by this section are subject to
21 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
22 this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided,
23 plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which
24 an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and
25 interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio
26 as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property
27 ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may
28 be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the
29 requirements is a result of circumstances beyond the control of the taxpayer."
30

1 **Section 9.** Section 15-30-140, MCA, is amended to read:

2 **"15-30-140. Refundable income tax credit -- statewide equalization property tax levies on principal**
3 **residence -- rules.** (1) (a) There is a credit against the tax imposed by this chapter, which is calculated by
4 multiplying the amount of property taxes imposed and paid on a property taxpayer's principal residence under
5 20-9-331; and 20-9-333, ~~and 20-9-360~~ on \$20,000 of market value on the residence times the relief multiple.

6 (b) ~~(i)~~ As used in subsection (1)(a), the relief multiple is a number used to change the amount of tax relief
7 allowed under this section. The relief multiple is 0. Each interim, the revenue and transportation interim committee
8 shall, based upon actual and projected state revenue and spending and any other appropriate factors, determine
9 if a change in the relief multiple is justified. If a change is justified, the committee shall request a bill to change
10 the relief multiple.

11 ~~(ii) The department of administration shall certify to the budget director on August 1, 2007, the amount~~
12 ~~of unaudited general fund revenue received in fiscal year 2007 as recorded when the fiscal year 2007 statewide~~
13 ~~accounting, budgeting, and human resources system records are closed in July 2007. Fiscal year 2007 is the~~
14 ~~period from July 1, 2006, to June 30, 2007. General fund revenue is as recorded in the statewide accounting,~~
15 ~~budgeting, and human resources system using generally accepted accounting principles in accordance with~~
16 ~~17-1-102(2). If the unaudited general fund revenue received in fiscal year 2007 exceeds \$1,802,000,000, for each~~
17 ~~\$1,000,000 greater than \$1,802,000,000, the factor in subsection (1)(b)(i) must increase by 0.1 for tax year 2007~~
18 ~~only.~~

19 (2) As used in this section, "principal residence" means a class four residential dwelling that is a
20 single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as
21 much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that
22 is occupied by the owner for at least 7 months during the tax year.

23 (3) Only one claim may be made with respect to any property.

24 (4) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess
25 must be refunded to the claimant. The credit may be claimed even if the claimant has no income taxable under
26 this chapter.

27 (5) The department may adopt rules to implement and administer this section."
28

29 **Section 10.** Section 15-39-110, MCA, is amended to read:

30 **"15-39-110. Distribution of taxes.** (1) (a) For each semiannual period, the department shall determine

1 the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that
2 produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through ~~(11)~~ (9).

3 (b) For each semiannual period, the department shall determine the amount of tax, late payment interest,
4 and penalties collected under this part from bentonite mines that first began producing bentonite after December
5 31, 2004. The tax is distributed as provided in subsection ~~(12)~~ (10).

6 (2) The percentage of the tax determined under subsection (1)(a) and specified in subsections (3)
7 through ~~(11)~~ (9) is allocated according to the following schedule:

8 (a) 2.33% to the state special revenue fund to be appropriated to the Montana university system for the
9 purposes of the state tax levy as provided in 20-25-423;

10 (b) 18.14% to the state general fund to be appropriated for the purposes of ~~the tax levies as provided~~
11 ~~in 20-9-331, 20-9-333, and 20-9-360~~ funding BASE aid to schools as provided in 20-9-306;

12 (c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing
13 jurisdictions in which production occurs, except a distribution may not be made for ~~county~~ and state levies under
14 ~~20-9-331, 20-9-333, 20-9-360, and 20-25-423~~; and

15 (d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing
16 jurisdictions in which production occurs, except a distribution may not be made for ~~county~~ and state levies under
17 ~~20-9-331, 20-9-333, 20-9-360, and 20-25-423~~.

18 ~~(3) For the production of bentonite occurring after December 31, 2006, and before January 1, 2008, 80%~~
19 ~~of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 20% must~~
20 ~~be distributed as provided in subsection (12).~~

21 ~~—— (4) For the production of bentonite occurring after December 31, 2007, and before January 1, 2009, 70%~~
22 ~~of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 30% must~~
23 ~~be distributed as provided in subsection (12).~~

24 ~~(5)(3)~~ (3) For the production of bentonite occurring after December 31, 2008, and before January 1, 2010,
25 60% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 40%
26 must be distributed as provided in subsection ~~(12)~~ (10).

27 ~~(6)(4)~~ (4) For the production of bentonite occurring after December 31, 2009, and before January 1, 2011,
28 50% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50%
29 must be distributed as provided in subsection ~~(12)~~ (10).

30 ~~(7)(5)~~ (5) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012,

40% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must be distributed as provided in subsection ~~(12)~~ (10).

~~(8)~~(6) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013, 30% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70% must be distributed as provided in subsection ~~(12)~~ (10).

~~(9)~~(7) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014, 20% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80% must be distributed as provided in subsection ~~(12)~~ (10).

~~(10)~~(8) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015, 10% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90% must be distributed as provided in subsection ~~(12)~~ (10).

~~(11)~~(9) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100% of the tax determined under subsection (1)(a) must be distributed as provided in subsection ~~(12)~~ (10).

~~(12)~~(10) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the distribution percentages determined under subsections (3) through ~~(11)~~ (9) are allocated according to the following schedule:

(a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423;

(b) 20.75% to the state general fund to be appropriated for the purposes of the tax ~~levies~~ levy as provided in 20-9-331; and 20-9-333; ~~and 20-9-360~~;

(c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 15-10-107; ~~20-9-331, 20-9-333, 20-9-360~~; and 20-25-423.

~~(13)~~(11) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before October 1 of each year, the department shall remit the county's share of bentonite production tax payments received for the semiannual period ending June 30 of the current year to the county treasurer.

(b) On or before April 1 of each year, the department shall remit the county's share of bentonite production tax payments received to the county treasurer for the semiannual period ending December 31 of the

1 previous year.

2 ~~(14)(12)~~ (a) The department shall also provide to each county the amount of gross yield of value from
3 bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield
4 of value must be treated as taxable value for county classification purposes under 7-1-2111 and for determining
5 school district debt limits under 20-9-406.

6 (b) The percentage amount of the gross yield of value determined under subsection ~~(14)(a)~~ (12)(a) must
7 be treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding
8 provisions as provided by law.

9 ~~(15)(13)~~ The bentonite tax proceeds are statutorily appropriated, as provided in 17-7-502, to the
10 department for distribution as provided in this section."
11

12 **Section 11.** Section 15-68-101, MCA, is amended to read:

13 **"15-68-101. Definitions.** For purposes of this chapter, unless the context requires otherwise, the
14 following definitions apply:

15 (1) (a) "Accommodations" means a building or structure containing individual sleeping rooms or suites
16 that provides overnight lodging facilities for periods of less than 30 days to the general public for compensation.

17 (b) Accommodations includes a facility represented to the public as a hotel, motel, campground, resort,
18 dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

19 (c) The term does not include a health care facility, as defined in 50-5-101, any facility owned by a
20 corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under 18 years of age for
21 camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average
22 daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under
23 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented
24 solely on a monthly basis or for a period of 30 days or more.

25 (2) (a) "Admission" means payment made for the privilege of being admitted to a facility, place, or event.

26 (b) The term does not include payment for admittance to a movie theater or to a sporting event
27 sanctioned by a school district, college, or university.

28 (3) "Agreement" means the Streamlined Sales and Use Tax Agreement provided for under [sections 48
29 through 55].

30 (4) "Alcoholic beverages" means beverages that are suitable for human consumption and contain 1/2

1 of 1% or more of alcohol by volume.

2 ~~(3)~~(5) (a) "Base rental charge" means the following:

3 (i) charges for time of use of the rental vehicle and mileage, if applicable;

4 (ii) charges accepted by the renter for personal accident insurance;

5 (iii) charges for additional drivers or underage drivers; and

6 (iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the
7 rental vehicle.

8 (b) The term does not include:

9 (i) rental vehicle price discounts allowed and taken;

10 (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the
11 privilege of operating as a concessionaire at an airport terminal building;

12 (iii) motor fuel;

13 (iv) intercity rental vehicle drop charges; or

14 (v) taxes imposed by the federal government or by state or local governments.

15 ~~(4)~~(6) (a) "Campground" means a place used for public camping where persons may camp, secure tents,
16 or park individual recreational vehicles for camping and sleeping purposes.

17 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended
18 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or
19 more.

20 (7) (a) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in
21 combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces.

22 (b) The term does not include any preparation that contains flour and that requires refrigeration.

23 (8) "Certified automated system" has the meaning provided in [section 49].

24 (9) "Certified service provider" has the meaning provided in [section 49].

25 (10) "Computer" means an electronic device that accepts information in a digital or similar form and
26 manipulates it for a result based on a sequence of instructions.

27 (11) "Computer software" means a set of coded instructions designed to cause a computer or automatic
28 data processing equipment to perform a task.

29 (12) "Delivery charges" means charges by the seller of personal property or services for preparation and
30 delivery to a location designated by the purchaser of personal property or services, including but not limited to

transportation, shipping, postage, handling, crating, and packing.

(13) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(a) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in subsections (13)(a)(i) through (13)(a)(v);

(b) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(c) is required to be labeled as a dietary supplement, identifiable by the "supplemental facts" box found on the label and as required pursuant to 21 CFR 101.36.

(14) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages:

(a) recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary and any supplement to them;

(b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(c) intended to affect the structure or any function of the body.

(15) (a) "Durable medical equipment" means equipment, including repair and replacement parts for equipment, that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) The term does not include mobility-enhancing equipment.

(16) "Electronic" means technology that relates to having electrical, digital, magnetic, wireless, optical,

1 electromagnetic, or similar capabilities.

2 ~~(5)(17)~~ "Engaging in business" means carrying on or causing to be carried on any activity with the
3 purpose of receiving direct or indirect benefit.

4 (18) (a) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen,
5 dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste
6 or nutritional value.

7 (b) The term does not include alcoholic beverages, candy, dietary supplements, soft drinks, or tobacco.

8 (19) "Food sold through vending machines" means food dispensed from a machine or other mechanical
9 device that accepts payment.

10 (20) "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste,
11 mouthwash, antiperspirants, and suntan lotions and sunscreens, regardless of whether the items meet the
12 definition of over-the-counter drugs.

13 ~~(6)(21)~~ (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal
14 property for a fixed or indeterminate term for consideration. A lease or rental may include future options to
15 purchase or extend.

16 (b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of
17 consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the
18 property, as defined in 26 U.S.C. 7701(h)(1).

19 (c) The term does not include:

20 (i) a transfer of possession or control of property under a security agreement or deferred payment plan
21 that requires the transfer of title upon completion of the required payments;

22 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title
23 upon completion of required payments and payment of an option price that does not exceed the greater of \$100
24 or 1% of the total required payments; or

25 (iii) providing tangible personal property with an operator if an operator is necessary for the equipment
26 to perform as designed and not just to maintain, inspect, or set up the tangible personal property.

27 (d) This definition must be used for sales tax and use tax purposes regardless of whether a transaction
28 is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code,
29 the Montana Uniform Commercial Code, or other provisions of federal, state, or local law.

30 (e) This definition must be applied only prospectively from the date of adoption and has no retroactive

1 impact on existing leases or rentals.

2 (22) "Maintaining an office or other place of business" means:

3 (a) a person having or maintaining within this state, directly or by a subsidiary, an office, distribution
4 house, sales house, warehouse, or place of business; or

5 (b) an agent operating within this state under the authority of the person or its subsidiary, whether the
6 place of business or agent is located within the state permanently or temporarily or whether or not the person or
7 its subsidiary is authorized to do business within this state.

8 (23) (a) "Manufacturing" means combining or processing components or materials, including the
9 processing of ores in a mill, smelter, refinery, or reduction facility, to increase their value for sale in the ordinary
10 course of business.

11 (b) The term does not include construction or mining.

12 (24) (a) "Mobility-enhancing equipment" means equipment, including repair and replacement parts, that:

13 (i) is primarily and customarily used to provide or increase the ability to move from one place to another
14 and that is appropriate for use either in a home or in a motor vehicle;

15 (ii) is not generally used by persons with normal mobility; and

16 (iii) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor
17 vehicle manufacturer.

18 (b) The term does not include durable medical equipment.

19 ~~(7)~~(25) (a) "Motor vehicle" means a light vehicle as defined in 61-1-101, a motorcycle as defined in
20 61-1-101, a motor-driven cycle as defined in 61-1-101, a quadricycle as defined in 61-1-101, a motorboat or a
21 sailboat as defined in 23-2-502, or an off-highway vehicle as defined in 23-2-801 that:

22 (i) is rented for a period of not more than 30 days;

23 (ii) is rented without a driver, pilot, or operator; and

24 (iii) is designed to transport 15 or fewer passengers.

25 (b) Motor vehicle includes:

26 (i) a rental vehicle rented pursuant to a contract for insurance; and

27 (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented
28 without a driver, and that is used in the transportation of personal property.

29 (c) The term does not include farm vehicles, machinery, or equipment.

30 (26) (a) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug.

1 as required by 21 CFR 201.66.

2 (b) An over-the-counter drug label includes:

3 (i) a drug facts panel; or

4 (ii) a statement of the active ingredients, with a list of those ingredients contained in the compound,
5 substance, or preparation.

6 (c) The term does not include grooming and hygiene products.

7 ~~—— (8) "Permit" or "seller's permit" means a seller's permit as described in 15-68-401.~~

8 ~~(9)(27)~~ "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability
9 company, limited liability partnership, or any other legal entity.

10 (28) (a) "Prepared food" means:

11 (i) food sold in a heated state or heated by the seller;

12 (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

13 (iii) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses,
14 cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

15 (b) The term does not include food that is only cut, repackaged, or pasteurized by the seller and eggs,
16 fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer, as
17 recommended by the United States food and drug administration in chapter 3, part 401.11, of its Food Code, so
18 as to prevent food-borne illnesses.

19 (29) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or
20 other means of transmission by a licensed practitioner as authorized by the laws of Montana.

21 (30) (a) "Prewritten computer software" means computer software, including prewritten upgrades, that
22 is not designed and developed by the author or other creator to the specifications of a specific purchaser. The
23 combining of two or more prewritten computer software programs or prewritten portions of computer software
24 programs does not cause the combination to be other than prewritten computer software.

25 (b) Prewritten computer software includes software designed and developed by the author or other
26 creator to the specifications of a specific purchaser if it is sold to a person other than the purchaser. If a person
27 modifies or enhances computer software that the person has not written or created, the person is considered to
28 be the author or creator only of the person's modifications or enhancements. Prewritten computer software or a
29 prewritten portion of computer software that is modified or enhanced to any degree, if the modification or
30 enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten

1 computer software. However, if there is a reasonable, separately stated charge or an invoice or other statement
2 of the price given to the purchaser for the modification or enhancement, the modification or enhancement does
3 not constitute prewritten computer software.

4 (31) "Property" means personal property as defined in 15-1-101.

5 (32) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and
6 replacement parts, worn on or in the body to:

7 (a) artificially replace a missing portion of the body;

8 (b) prevent or correct a physical deformity or malfunction; or

9 (c) support a weak or deformed portion of the body.

10 (33) "Purchase price" applies to the measure subject to sales tax or use tax and has the same meaning
11 as sales price.

12 ~~(10)~~(34) "Purchaser" means a person to whom a sale of personal property is made or to whom a service
13 is furnished.

14 (35) "Registration" or "seller's registration" means a seller's registration as described in 15-68-401.

15 ~~(11)~~(36) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of
16 the motor vehicle through an arrangement and for consideration.

17 ~~(12)~~(37) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease,
18 or subrent.

19 ~~(13)~~(38) "Sale" or "selling" means the transfer of property for consideration or the performance of a
20 service for consideration.

21 ~~(14)~~(39) (a) "Sales price" applies to the measure subject to sales tax and means the total amount or
22 consideration, including cash, credit, property, and services, for which personal property or services are sold,
23 leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the
24 following:

25 (i) the seller's cost of the property sold;

26 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the
27 seller, all taxes imposed on the seller, and any other expense of the seller;

28 (iii) charges by the seller for any services necessary to complete the sale, other than delivery and
29 installation charges;

30 (iv) delivery charges;

1 (v) installation charges; and

2 (vi) the value of exempt personal property given to the purchaser when taxable and exempt personal
3 property have been bundled together and sold by the seller as a single product or piece of merchandise; ~~and~~

4 ~~—— (vii) credit for any trade-in.~~

5 ~~(b) The amount received for charges listed in subsections (14)(a)(iii) through (14)(a)(vii) are excluded~~
6 ~~from the sales price if they are separately stated on the invoice, billing, or similar document given to the~~
7 ~~purchaser.~~

8 ~~(c)(b)~~ The term does not include:

9 (i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed
10 by a seller and taken by a purchaser on a sale;

11 (ii) interest, financing, and carrying charges from credit extended on the sale of personal property or
12 services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

13 ~~or~~

14 (iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of
15 sale, or similar document given to the purchaser; or

16 (iv) trade-in value of tangible personal property when the trade-in and purchase occur in one transaction.

17 ~~(d) In an exchange in which the money or other consideration received does not represent the value of~~
18 ~~the property or service exchanged, sales price means the reasonable value of the property or service exchanged.~~

19 ~~—— (e) When the sale of property or services is made under any type of charge or conditional or time sales~~
20 ~~contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat the sales price,~~
21 ~~excluding any type of time-price differential, under the contract as the sales price at the time of the sale.~~

22 ~~(15)(40)~~ "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

23 ~~(16)(41)~~ "Seller" means a person that makes sales, leases, or rentals of personal property or services.

24 ~~(17)(42)~~ (a) "Service" means an activity that is engaged in for another person for consideration and that
25 is distinguished from the sale or lease of property. Service includes activities performed by a person for its
26 members or shareholders.

27 (b) In determining what a service is, the intended use, principal objective, or ultimate objective of the
28 contracting parties is irrelevant.

29 (43) (a) "Soft drink" means nonalcoholic beverages that contain natural or artificial sweeteners, including:

30 (i) bottled water, mineral water, and other nonalcoholic beverages typically sold in cans, bottles, or similar

packaging or through a fountain-type dispenser; and

(ii) the beverages or mixtures commonly referred to as milkshakes or malteds.

(b) Except as provided in subsection (43)(a)(ii), the term does not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

(44) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, and computer software.

(45) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(18)(46) "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use solely outside this state, in the ordinary course of business.

(47) (a) "Value" means the total amount of money or the reasonable value of other consideration paid for the use of the property or services, exclusive of any type of time-price differential.

(b) In a transaction in which the amount of money or other consideration paid does not represent the value of the property or service purchased, the use tax must be imposed on the reasonable value of the property purchased."

Section 12. Section 15-68-102, MCA, is amended to read:

"15-68-102. Imposition and rate of sales tax and use tax -- exceptions. (1) A sales tax of ~~the following percentages~~ 4% is imposed on ~~all sales of the following property or services: of services and of tangible personal property~~

~~(a) 3% on accommodations and campgrounds;~~

~~—— (b) 4% on the base rental charge for rental vehicles.~~

(2) The sales tax is imposed on the purchaser and must be collected by the seller and paid to the department by the seller. The seller holds all sales taxes collected in trust for the state. The sales tax must be applied to the sales price.

(3) (a) For the privilege of using property or services within this state, there is imposed on the person using ~~the following~~ tangible personal property or services a use tax ~~equal to the following percentages of 4% of the value of the property or services: the use of the services or tangible personal property~~

~~(i) 3% on accommodations and campgrounds;~~

1 ~~—— (ii) 4% on the base rental charge for rental vehicles.~~

2 (b) The use tax is imposed on property or services that were:

3 (i) acquired outside this state as the result of a transaction that would have been subject to the sales tax
4 had it occurred within this state;

5 (ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a
6 transaction that would have been subject to the sales tax had it occurred outside the exterior boundaries of an
7 Indian reservation within this state;

8 (iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by
9 subsection (1) or the use tax imposed by subsection (3)(a) but which transaction, because of the buyer's
10 subsequent use of the property, is subject to the sales tax or use tax; or

11 (iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that
12 because of the buyer's subsequent use of the services is subject to the sales tax or use tax.

13 (4) For purposes of this section, the value of property must be determined as of the time of acquisition,
14 introduction into this state, or conversion to use, whichever is latest.

15 (5) The sale of property or services exempt or nontaxable under this chapter is exempt from the tax
16 imposed in subsections (1) and (3).

17 ~~(6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and~~
18 ~~(3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed~~
19 ~~charge for accommodations or campgrounds."~~

20
21 **NEW SECTION. Section 13. Credit -- out-of-state taxes.** If a sales tax, use tax, or similar tax has
22 been levied by another state or a political subdivision of another state on property that was bought outside this
23 state but that will be used or consumed within this state and the tax was paid by the current user, the amount of
24 tax paid may be credited against any use tax due this state on the same property. The credit may not exceed the
25 sales tax or use tax due this state.

26
27 **Section 14.** Section 15-68-110, MCA, is amended to read:

28 **"15-68-110. Collection of sales tax and use tax -- listing of business locations and agents --**
29 **severability.** (1) Except when the purchaser has a direct payment permit as provided in [section 14], a person
30 engaging in the business of selling property or services subject to taxation under this chapter shall collect the

1 sales tax from the purchaser and pay the sales tax collected to the department.

2 (2) (a) A person that solicits or exploits the consumer market within this state by regularly and
3 systematically performing an activity within this state and whose sales are not subject to the sales tax shall collect
4 the use tax from the purchaser and pay the use tax collected to the department.

5 (b) "Activity", for the purposes of this section and to the extent not preempted by federal law, includes
6 but is not limited to engaging in any of the following within this state:

7 (i) maintaining an office or other place of business that solicits orders through employees or independent
8 contractors;

9 (ii) canvassing;

10 (iii) demonstrating;

11 (iv) collecting money;

12 (v) warehousing or storing merchandise;

13 (vi) delivering or distributing products as a consequence of an advertising or other sales program directed
14 at potential customers;

15 (vii) to the extent permitted by federal law, soliciting orders for property by means of telecommunications
16 or a television shopping system or by providing telecommunications services that use toll or toll-free numbers and
17 that are intended to be broadcast by cable television or other means to consumers within this state;

18 (viii) soliciting orders, pursuant to a contract with a broadcaster or publisher located within this state, for
19 property by means of advertising disseminated primarily to consumers located within this state and only
20 secondarily to bordering jurisdictions;

21 (ix) soliciting orders for property by mail through the distribution of catalogs, periodicals, advertising flyers,
22 or other advertising;

23 (x) soliciting orders, pursuant to a contract with a cable television operator located within this state, for
24 tangible personal property by means of advertising transmitted or distributed over a cable television system within
25 this state; or

26 (xi) participating in an act that benefits from banking, financing, debt collection, telecommunications, or
27 marketing activities occurring within this state or that benefits from the location within this state of authorized
28 installation, servicing, or repair facilities.

29 (3) Multistate registration pursuant to the agreement may not be used as a factor to determine whether
30 the person is conducting an activity within the state subjecting the person to the sales tax or use tax.

(2)(4) A person engaging in business within this state shall, before making any sales subject to this chapter, ~~obtain a seller's permit~~ register as a seller, as provided in 15-68-401, and at the time of making a sale, whether within or outside the state, collect the sales tax imposed by 15-68-102 from the purchaser and give to the purchaser a receipt, in the manner and form prescribed by rule, for the sales tax paid.

(3)(5) The department may authorize the collection of the sales tax imposed by 15-68-102 by any retailer who does not maintain a place of business within this state but who, to the satisfaction of the department, is in compliance with the law. When authorized, the person shall collect the use tax upon all property and services that, to the person's knowledge, are for use within this state and subject to taxation under this chapter.

(4)(6) All sales tax and use tax required to be collected and all sales tax and use tax collected by any person under this chapter constitute a debt owed to this state by the person required to collect the sales tax and use tax.

(5)(7) A person engaging in business within this state that is subject to this chapter shall provide to the department:

(a) the names and addresses of all of the person's agents operating within this state; and

(b) the location of each of the person's distribution houses or offices, sales houses or offices, and other places of business within this state.

(6)(8) If any application of this section is held invalid, the application to other situations or persons is not affected."

NEW SECTION. Section 15. Direct payment of sales tax -- direct payment permits. (1) The department may issue direct payment permits to any person liable for the payment of more than \$500 a year in sales tax. A person shall apply to the department for a permit, on forms approved by the department. By applying for a direct payment permit, the applicant acknowledges that the applicant assumes all obligations to pay any sales tax due under this chapter as a direct payment permitholder. A direct payment permit may be revoked by the department at any time upon 90 days' written notice to the permitholder. A permitholder may be audited by the department.

(2) A direct payment permitholder shall pay any sales tax authorized under this chapter directly to the department. The permitholder must receive a nontaxable transaction certificate, as provided in 15-68-202, using the direct payment permit as a basis for the exemption.

1 **Section 16.** Section 15-68-201, MCA, is amended to read:

2 **"15-68-201. Nontaxable transaction certificate -- requirements.** (1) A nontaxable transaction
3 certificate executed by a buyer or lessee must be in the possession of the seller or lessor at the time that a
4 nontaxable transaction occurs.

5 (2) A nontaxable transaction certificate must contain the information and be in the form prescribed by
6 the department.

7 (3) Only a buyer or lessee who has registered with the department and whose seller's permit registration
8 is valid may execute a nontaxable transaction certificate.

9 ~~(4) If the seller or lessor accepts a nontaxable transaction certificate within the required time and believes~~
10 ~~in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the~~
11 ~~properly executed nontaxable transaction certificate is considered conclusive evidence that the sale is~~
12 ~~nontaxable."~~

13
14 **Section 17.** Section 15-68-202, MCA, is amended to read:

15 **"15-68-202. Nontaxable transaction certificate -- form.** (1) The department shall provide for a uniform
16 nontaxable transaction certificate. An electronic or digitally usable version of a nontaxable transaction certificate
17 may also be provided. A purchaser shall use the certificate when purchasing goods or services for resale or for
18 other nontaxable transactions.

19 (2) At a minimum, the certificate must provide:

20 (a) ~~the~~ a unique identification number of the seller's permit issued to the purchaser as provided in
21 ~~15-68-401;~~

22 (b) ~~the general character of property or service sold by the purchaser in the regular course of business~~
23 nature of the exemption, such as the fact that:

24 ~~(e)(i)~~ the property or service is purchased for resale;

25 (ii) the property or service is purchased for manufacturing;

26 (iii) the purchaser is authorized to make direct payments; or

27 (iv) the purchaser is an entity exempt from payment of the sales tax;

28 ~~(d)(c)~~ the name and address of the purchaser; and

29 ~~(e)(d)~~ if it is a paper certificate, a signature line for the purchaser.

30 (3) The department shall adopt rules to provide procedures for application for and provision of a

1 certificate to a person engaging in business within this state ~~for renting accommodations and campgrounds prior~~
2 ~~to June 1, 2003, and renting vehicles prior to July 1, 2003~~ prior to [the applicability date of this section]. The rules
3 adopted by the department must ensure that each person that is engaging in business within this state ~~for renting~~
4 ~~accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003, prior to [the~~
5 ~~applicability date of this section]~~ that has applied in a timely fashion is issued a certificate ~~for renting~~
6 ~~accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003 prior to [the~~
7 ~~applicability date of this section]."~~

8
9 **NEW SECTION. Section 18. Exempt services.** (1) The following services, as enumerated in the North
10 American Industry Classification System Manual (NAICS) (2007) prepared by the United States office of
11 management and budget, office of the president, are exempt from taxation:

- 12 (a) health services (NAICS sector 62);
- 13 (b) educational services (NAICS sector 61);
- 14 (c) agriculture, forestry, and fishing and hunting services (NAICS sector 11), except fishing, hunting, and
15 trapping (NAICS subsector 114);
- 16 (d) only to the extent that it must be exempt under federal law, radio and television broadcasting (NAICS
17 group 5151); and
- 18 (e) transportation (NAICS sector 48), except:
 - 19 (i) nonscheduled air transportation (NAICS group 4812);
 - 20 (ii) transit and ground transportation (NAICS subsector 485), other than urban transit systems (48511)
21 and school and employee bus transportation (NAICS group 4854); and
 - 22 (iii) scenic and sightseeing transportation (NAICS subsector 487).

23 (2) The following are also specifically exempt from the sales tax and use tax imposed in 15-68-102:

- 24 (a) services rendered by an employee for the employee's employer;
- 25 (b) commissions earned or service fees paid by an insurance company to an agent, insurance producer,
26 or representative for the sale of an insurance policy;
- 27 (c) the rental or lease of a motor vehicle having a manufacturer's rated capacity of 1 ton or more;
- 28 (d) services provided by a corporation to:
 - 29 (i) another corporation that is centrally assessed and that has identical ownership to the corporation
30 providing the service; and

1 (ii) a subsidiary that is wholly owned by the corporation providing the service and that is centrally
2 assessed;

3 (e) retail telecommunications services subject to the retail telecommunications excise tax under Title 15,
4 chapter 53; and

5 (f) gambling that is regulated under Title 23, chapter 5.

6
7 **NEW SECTION. Section 19. Exemption -- government agencies -- utility services.** (1) Except as
8 provided in subsection (3), all sales by, sales to, or uses by the United States, this state, an agency or
9 instrumentality of the United States or of this state, a political subdivision of this state, an Indian tribe, or a foreign
10 government are exempt from the sales tax and use tax.

11 (2) The sale or use of natural gas, water, electricity, refuse collection, or other utility services is exempt
12 from the sales tax and use tax.

13 (3) The sale or use of a telecommunications service is exempt to the extent that taxation of the service
14 violates federal law.

15
16 **NEW SECTION. Section 20. Exemption -- agriculture.** (1) Except as provided in subsection (2),
17 sales by, sales to, or uses by a person engaged in agriculture are exempt from the sales tax and use tax.

18 (2) (a) A purchase by a person engaged in agriculture is exempt from the sales tax or use tax only if the
19 property or service purchased is used exclusively in or for the person's agricultural operation.

20 (b) A sale by a person engaged in agriculture is exempt from the sales tax and use tax only if the
21 property or service sold is substantially a nonretail agricultural sale.

22
23 **NEW SECTION. Section 21. Exemption -- food products.** (1) Except as provided in subsection (3),
24 the sale or use of food and food ingredients is exempt from the sales tax and use tax.

25 (2) The sale of food purchased under the special supplemental food program for women, infants, and
26 children as specified in 42 U.S.C. 1786, as amended, is exempt from the sales tax and use tax.

27 (3) Except as provided in subsection (4), the sale of prepared food and food sold through vending
28 machines is taxable.

29 (4) Prepared food offered or delivered as part of a residential living arrangement and consumed by an
30 individual that is party to the arrangement or by patients of a health care facility is exempt from the sales tax and

1 use tax.

2
3 **NEW SECTION. Section 22. Exemption -- medicine, drugs, and certain devices.** The following are
4 exempt from the sales tax and use tax:

5 (1) prescription drugs, over-the-counter drugs, durable medical equipment, and mobility-enhancing
6 equipment; and

7 (2) insulin, oxygen, and therapeutic and prosthetic devices.

8
9 **NEW SECTION. Section 23. Exemption -- vehicles.** (1) The sale and use of a vehicle described in
10 subsection (2) is exempt from the sales tax and use tax.

11 (2) The following vehicles are exempt under subsection (1):

12 (a) a vehicle, except a motor home, as defined in 61-1-101, that exceeds the maximum limit for
13 consideration as a light vehicle, as defined in 61-1-101; and

14 (b) a vehicle that has a manufacturer's rated capacity of 1 ton or more and is required, under 61-10-201,
15 to pay the fee for a maximum gross loaded weight of 1 ton or more.

16 (3) The sale of a motor home is subject to the sales tax and use tax.

17
18 **NEW SECTION. Section 24. Exemption -- special fuel.** The sale and use of special fuel that is
19 exempt from taxation under Title 15, chapter 70, part 3, are exempt from the sales tax and use tax.

20
21 **NEW SECTION. Section 25. Exemption -- insurance premiums.** The premiums of an insurance
22 company, a health service corporation, a health maintenance organization, or a fraternal benefit society or of a
23 producer of the company, corporation, organization, or society are exempt from the sales tax.

24
25 **NEW SECTION. Section 26. Exemption -- dividends and interest.** The following are exempt from the
26 sales tax:

27 (1) interest on money loaned or deposited;

28 (2) dividends or interest from stocks, bonds, or securities;

29 (3) proceeds from the sale of stocks, bonds, or securities.

1 **Section 27.** Section 15-68-207, MCA, is amended to read:

2 **"15-68-207. Exemption -- isolated or occasional sale or lease of property.** (1) The isolated or
3 occasional sale or lease of property by a person that is not regularly engaged in or that does not claim to be
4 engaged in the business of selling or leasing the ~~same~~ property or a similar property is exempt from the sales
5 tax and use tax.

6 (2) Occasional sales include sales that are occasional but not continuous and that are made for the
7 purpose of fundraising by nonprofit organizations, including but not limited to youth clubs, service clubs, and
8 fraternal organizations."

9
10 **NEW SECTION. Section 28. Exemption -- personal effects.** The use by an individual of personal or
11 household effects brought into the state for the establishment by the individual of an initial residence within this
12 state and the use of property brought into the state by a nonresident for the nonresident's own nonbusiness use
13 while temporarily within this state are exempt from the use tax.

14
15 **NEW SECTION. Section 29. Exemption -- agricultural feed, fertilizers, and services.** The sale or
16 use of the following when used in the course of an agricultural business is exempt from the sales tax and use tax:

- 17 (1) feed for livestock;
18 (2) semen, ova, and embryos used in animal husbandry;
19 (3) seeds, roots, and bulbs;
20 (4) soil conditioners and fertilizers;
21 (5) insecticides, insects used to control weeds or the population of other insects, fungicides, weedicides,
22 and herbicides;
23 (6) water for commercial irrigation; and
24 (7) agricultural materials, supplies, and services, including repairs, that are used, applied, distributed,
25 or otherwise employed in the sale or use of property or a service described in subsections (1) through (6).

26
27 **NEW SECTION. Section 30. Exemption -- agricultural products -- livestock feeding.** (1) (a) The
28 sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts by a grower, producer, trapper,
29 or nonprofit marketing association is exempt from the sales tax.

30 (b) A person engaged in the business of buying and selling wool or mohair or of buying and selling

1 livestock on the person's own account and without the services of a broker, auctioneer, or other agent is
2 considered a producer for the purposes of subsection (1)(a).

3 (2) Sales from feeding, pasturing, penning, handling, or training livestock prior to sale are exempt from
4 the sales tax.

5
6 **NEW SECTION. Section 31. Exemption -- minerals -- exceptions.** (1) The sale or lease of interests
7 in minerals is exempt from the sales tax and use tax.

8 (2) Except as provided in subsections (5) and (6), the sale or use of a mineral is exempt from the sales
9 tax and use tax.

10 (3) (a) Minerals used by the producer of the minerals for purposes of exploring for, producing, or
11 transporting minerals are exempt from the sales tax and use tax.

12 (b) The exemption provided in subsection (3)(a) does not include the use of refined petroleum products
13 used for exploring for, producing, or transporting minerals.

14 (4) The sale or use of platinum and palladium, whenever refined and preserved in coins, ingots, bars,
15 rods, rolls, ribbons, wire, or other similar forms, is exempt from the sales tax and use tax.

16 (5) Minerals used as or integrated into jewelry, used as or integrated into sculpture or another form of
17 art, or used as a decorative embellishment or adornment, either in their own right, in combination with other
18 property, or after being refined, reduced, polished, cut, faceted, or otherwise processed into jewelry, art, or other
19 decorative embellishment, are not included in the exemption provided in this section.

20 (6) Minerals that are used for producing energy or that are used for conversion into energy are subject
21 to the sales tax or use tax unless the energy is produced or converted for resale as a form of energy.

22 (7) For the purposes of this section, the term "mineral" has the meaning provided in 15-38-103.

23
24 **NEW SECTION. Section 32. Nontaxability -- agriculture -- construction -- manufacturing -- mining**
25 **-- certain substances.** (1) The sale of property or a service to or the use of property or a service by a purchaser
26 is nontaxable if:

27 (a) the purchaser has an exemption certificate;

28 (b) the purchaser is engaged in and uses the property or service in any of the following:

29 (i) agriculture;

30 (ii) the construction industry, as defined in 39-71-116, and the item purchased is incorporated into an

improvement to real property that is to be used for commercial purposes or in the construction of public property;

(iii) mining. For the purposes of this section, the term "mining" means the carrying on of operations of any kind for the purpose of extracting from the earth any mineral, as defined in 15-38-103, and includes operations of any kind for the extraction of any mineral from any other mineral. The term does not include manufacturing.

(iv) manufacturing. For the purposes of this section, the term "manufacturing" has the meaning provided in the North American Industry Classification System Manual (2007) prepared by the United States office of management and budget.

(c) (i) the purchaser incorporates the property as an ingredient or component part of the product in the business of mining or manufacturing; or

(ii) the purchaser uses the property to extract a mineral and the property is required to be abandoned in place, in accordance with state regulations, when production of the mineral from a mine or wellhead permanently ceases.

(2) The sale or use of any chemical, reagent, or other substance that is used or consumed in the processing of ores or petroleum in a mill, smelter, refinery, or reduction facility or in acidizing oil wells is nontaxable if the purchaser has an exemption certificate and the purchaser is engaged in and uses the property or service in mining or manufacturing.

NEW SECTION. Section 33. Nontaxability -- sale for resale. (1) The sale of property for resale is nontaxable if:

(a) the sale is made to a purchaser with an exemption certificate; and

(b) the purchaser resells the property either by itself or in combination with other property in the ordinary course of business and the property will ultimately be subject to the sales tax or use tax.

(2) The sale of a service for resale is nontaxable if:

(a) the sale is made to a purchaser with an exemption certificate;

(b) the purchaser resells the service and separately states the value of the service purchased in the charge for the service in the subsequent sale; and

(c) the subsequent sale is in the ordinary course of business and is subject to the sales tax or use tax.

NEW SECTION. Section 34. Nontaxability -- sale or lease of real property or improvements and

1 **lease of mobile homes -- exception.**(1) Except as provided in subsections (2) and (3), the sale or lease of real
2 property, improvements, a mobile home, or a manufactured home is nontaxable.

3 (2) (a) The lease or rental of a house, mobile home, manufactured home, condominium, townhouse,
4 cabin, apartment, or other space leased or rented as a dwelling is taxable if the construction of the space was
5 nontaxable.

6 (b) The inclusion of furniture or appliances furnished by the landlord or lessor as part of a leased or
7 rented space described in subsection (2)(a) is nontaxable.

8 (c) The department shall presume that the lease or rental of space described in subsection (2)(a) is
9 taxable unless sufficient evidence is provided to the satisfaction of the department that the lease or rental is
10 nontaxable.

11 (3) (a) Except as provided in subsection (3)(b), 50% of the value is nontaxable for the sale or use of:

12 (i) a mobile home, as defined in 15-1-101; and

13 (ii) a manufactured home, as defined in 15-1-101.

14 (b) (i) The nontaxability of the portion of value provided under this subsection (3) applies only to the
15 initial sale or use in this state of a mobile home or a manufactured home.

16 (ii) A mobile home or a manufactured home for which a certificate of title was issued under Title 61,
17 chapter 3, part 2, before [the applicability date of this section] is nontaxable.

18 (iii) A manufactured home that was assessed under Title 15, chapter 6, as an improvement before [the
19 applicability date of this section] is nontaxable.

20 (4) For the purposes of this section, the department of revenue and the department of justice may adopt
21 rules for determining when the sale of a mobile home or a manufactured home is an initial sale and subject to
22 the sales tax or use tax.

23
24 **NEW SECTION. Section 35. Nontaxability -- transactions in interstate commerce -- certain**
25 **property used in interstate commerce.** The following are nontaxable:

26 (1) a transaction in interstate commerce to the extent that the imposition of the sales tax or use tax would
27 be unlawful under the United States constitution;

28 (2) the transmission of messages or conversations by radio when the transmissions originate from a
29 point outside this state and are received at a point within this state; and

30 (3) the sale of radio or television broadcast time if the advertising message is supplied by or on behalf

1 of a national or regional seller or an advertiser that does not have its principal place of business within this state
2 or that is not incorporated under the laws of this state.

3
4 **NEW SECTION. Section 36. Nontaxability -- sale of certain services to out-of-state purchaser.**

5 (1) Except as provided in subsection (3), sales of a service are not taxable if the sale is made to a purchaser that
6 delivers to the seller either an exemption certificate or other evidence acceptable to the department that the
7 transaction and the person that delivers the exemption certificate or other evidence acceptable to the department
8 meet the conditions set out in subsection (2).

9 (2) Sales of a service are not taxable if the purchaser of the service, any of the purchaser's employees,
10 or any person in privity with the purchaser:

11 (a) does not make initial use of the product or the service within this state;

12 (b) does not take delivery of the product or the service within this state; or

13 (c) concurrent with the performance of the service, does not have a regular place of work within this state
14 or spend more than brief and occasional periods of time within this state and:

15 (i) does not have any communication within this state related in any way to the subject matter,
16 performance, or administration of the service with the person performing the service; or

17 (ii) does not personally perform work within this state related to the subject matter of the service.

18 (3) Services that initially were nontaxable under this section but that no longer meet the criteria in
19 subsection (2) are nontaxable only for the period prior to the disqualification and are, after disqualification,
20 taxable.

21
22 **NEW SECTION. Section 37. Nontaxability -- sale of tangible personal property for leasing.** The
23 sale of tangible personal property, other than furniture or appliances, is nontaxable if:

24 (1) the sale is made to a purchaser that has a nontaxable transaction certificate;

25 (2) the purchaser is engaged in a business deriving more than 50% of its receipts from selling or leasing
26 property of the type sold; and

27 (3) the purchaser does not use the property in any manner other than holding it for sale or lease or
28 selling or leasing it, either by itself or in combination with other property, in the ordinary course of business.

29
30 **NEW SECTION. Section 38. Nontaxability -- lease for subsequent lease.** The lease of property,

other than furniture or appliances that are purchased for use as described in [section 34(2)(b)], is nontaxable if:

(1) the lease is made to a lessee who has an exemption certificate; and

(2) the lessee does not use the property in any manner other than for subsequent lease in the ordinary course of business.

NEW SECTION. Section 39. Nontaxability -- use tax -- use of property for leasing. The value of leased property is not considered in computing the use tax due if the person holding the property for lease:

(1) is engaged in a business that derives a substantial portion of its receipts from selling, renting, or leasing property of the type leased;

(2) does not use the property in any manner other than holding it for sale, rental, or lease or selling, renting, or leasing it, either by itself or in combination with other tangible personal property, in the ordinary course of business; and

(3) does not use the property in a manner incidental to the performance of a service that is taxable under 15-68-102.

Section 40. Section 15-68-401, MCA, is amended to read:

"15-68-401. Seller's ~~permit~~ registration. (1) A person that wishes to engage in business within this state that is subject to this chapter shall ~~obtain~~ file with the department an application for a seller's permit registration before engaging in business within this state.

(2) Registration may be directly with the department or through the multistate central registration system as provided in the agreement. Sellers registered through the multistate central registration system agree to collect and remit sales taxes and use taxes for taxable Montana sales and comply with audit and compliance provisions established through the agreement.

~~(2)(3)~~ Upon an applicant's compliance with this chapter, the department shall issue to the applicant a separate, numbered seller's ~~permit registration~~ for each location in which the applicant maintains an office or other place of business within Montana. A ~~permit registration~~ is valid until revoked or suspended but is not assignable. A ~~permit registration~~ is valid only for the person in whose name it is issued and for the transaction of business at the place designated. The ~~permit registration~~ must be conspicuously displayed at all times at the place for which it is issued.

~~(3)(4)~~ The department shall adopt rules to provide procedures for application for a seller's registration

1 and ~~a provision of a seller's permit to a person for registering sellers~~ engaging in business within this state that
2 is subject to this chapter ~~for renting accommodations and campgrounds prior to June 1, 2003, and renting~~
3 ~~vehicles prior to July 1, 2003~~ prior to [the applicability date of this section]. The rules adopted by the department
4 must ensure that each person engaging in business within this state ~~for renting accommodations and~~
5 ~~campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003, prior to [the applicability date of~~
6 ~~this section]~~ is issued a seller's permit ~~for renting accommodations and campgrounds prior to June 1, 2003 prior~~
7 ~~to [the applicability date of this section], and renting vehicles prior to July 1, 2003~~. The department may adopt
8 rules providing for seasonal ~~permits~~ registration."

9
10 **Section 41.** Section 15-68-402, MCA, is amended to read:

11 **"15-68-402. ~~Permit application~~ Application for seller's registration -- requirements -- place of**
12 **business -- form.** (1) (a) A person that wishes to engage in the business of making retail sales or providing
13 services in Montana that are subject to this chapter shall file with the department an application for a ~~permit~~
14 seller's registration. If the person has more than one location in which the person maintains an office or other
15 place of business, an application may include multiple locations.

16 (b) An applicant who does not maintain an office or other place of business and who moves from place
17 to place is considered to have only one place of business and shall attach the ~~permit~~ seller's registration to the
18 applicant's cart, stand, truck, or other merchandising device.

19 (c) A vending machine operator who has more than one vending machine location is considered to have
20 only one place of business for purposes of this section.

21 (2) Each person or class of persons required to file a return under this chapter is required to file an
22 application for a ~~permit~~ seller's registration.

23 (3) ~~Each~~ An application for a ~~permit~~ seller's registration ~~must~~ may be ~~on a~~ in either electronic or paper
24 form as prescribed by the department, ~~and~~ The application must meet the requirements of the multistate central
25 registration system under the agreement even if the applicant intends to make local retail sales only in Montana.
26 The form must set forth the name under which the applicant intends to transact business, the location of the
27 applicant's place or places of business, and other information that the department may require. The application
28 must be filed by the owner if the owner is a natural person or by a person authorized to sign the application if the
29 owner is a corporation, partnership, limited liability company, or some other business entity."

1 **Section 42.** Section 15-68-405, MCA, is amended to read:

2 **"15-68-405. Revocation or suspension of permit seller's registration -- appeal.** (1) Subject to the
3 provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any permit seller's
4 registration held by a person that fails to comply with the provisions of this chapter.

5 (2) The department shall provide dispute resolution on a proposed revocation or suspension pursuant
6 to 15-1-211.

7 (3) If a permit seller's registration is revoked, the department may not issue a new permit seller's
8 registration except upon application accompanied by reasonable evidence of the intention of the applicant to
9 comply with the provisions of this chapter. The department may require security in addition to that authorized by
10 15-68-512 in an amount reasonably necessary to ensure compliance with this chapter as a condition for the
11 issuance of a new permit seller's registration to the applicant.

12 (4) A person aggrieved by the department's final decision to revoke a permit seller's registration, as
13 provided in subsection (1), may appeal the decision to the state tax appeal board within 30 days after the date
14 on which the department issued its final decision."

15
16 **Section 43.** Section 15-68-501, MCA, is amended to read:

17 **"15-68-501. Liability for payment of tax -- security for retailer without place of business -- penalty.**

18 (1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes have been paid to the
19 department.

20 (2) A retailer that does not maintain an office or other place of business within this state is liable for the
21 sales tax or use tax in accordance with this chapter and may be required to furnish adequate security, as provided
22 in 15-68-512, to ensure collection and payment of the taxes. When authorized and except as otherwise provided
23 in this chapter, the retailer is liable for the taxes upon all property sold and services provided in this state in the
24 same manner as a retailer who maintains an office or other place of business within this state. The seller's permit
25 registration provided for in 15-68-401 may be canceled at any time if the department considers the security
26 inadequate or believes that the taxes can be collected more effectively in another manner.

27 (3) An agent, canvasser, or employee of a retailer doing business within this state may not sell, solicit
28 orders for, or deliver any property or services within Montana unless the principal, employer, or retailer possesses
29 a seller's permit registration issued by the department. If an agent, canvasser, or employee violates the provisions
30 of this chapter, the person is subject to a fine of not more than \$100 for each separate transaction or event."

1
2 **Section 44.** Section 15-68-502, MCA, is amended to read:

3 **"15-68-502. Returns -- payment -- authority of department.** (1) ~~Except as provided in subsection (2),~~
4 ~~on or before the last day of the month following the calendar quarter in which the transaction subject to the tax~~
5 ~~imposed by this chapter occurred, a return, on a form provided by the department, and payment of the tax for the~~
6 ~~preceding quarter must be filed with the department.~~ Each person engaged in business within this state or using
7 property or services within this state that are subject to tax under this chapter shall file a return. ~~A person making~~
8 ~~retail sales at two or more places of business shall file a separate return for each separate place of business.~~
9 Sellers that are registered under the agreement and that use either a certified automated system or a certified
10 service provider, as defined in [section 49], are subject to the reporting and payment provisions of subsection (2)
11 of this section. A person who has been issued a seasonal seller's registration shall file a return and pay the tax
12 on the date or dates set by the department. All other sellers are subject to the reporting and payment provisions
13 of subsection (3).

14 (2) (a) On or before the 20th day of each month, a return, in a form adopted by the department in
15 conformance with the agreement, with a remittance of the tax owed for the preceding month must be filed with
16 the department. The filing and the remittance may be done electronically.

17 (b) The seller and any agent of the seller, for the purposes of reporting or paying the sales tax or use
18 tax, are subject to the audit and accountability provisions of the agreement.

19 ~~(2) A person who has been issued a seasonal seller's permit shall file a return and pay the tax on the~~
20 ~~date or dates set by the department.~~

21 (3) (a) For the purposes of the sales tax or use tax, a return must be filed by:

22 (i) a retailer required to collect the tax; ~~and~~

23 (ii) a purchaser with a direct payment permit; and

24 ~~(ii)~~(iii) a person that:

25 (A) purchases any items the storage, use, or other consumption of which is subject to the sales tax or
26 use tax; and

27 (B) has not paid the tax to a retailer required to pay the tax.

28 (b) A return must be filed with and payment must be received by the department on or before the 20th
29 day of each month for taxes owed for sales occurring during the preceding month. A seller that has a tax liability
30 that averages less than \$100 a month may report and pay the tax on a quarterly basis and shall file the return

1 with payment received by the department before the 20th day of the month after the end of the quarter.

2 ~~(b)~~(c) Each return must be authenticated by the person filing the return or by the person's agent
3 authorized in writing to file the return.

4 (4) (a) A person required to collect and pay to the department the taxes imposed by this chapter shall
5 keep records, render statements, make returns, and comply with the provisions of this chapter and the rules
6 prescribed by the department. Each return or statement must include the information required by the rules of the
7 department. The department shall comply with the provisions of the agreement in determining reports and records
8 management requirements in reference to sellers that are registered under the agreement.

9 (b) For the purpose of determining compliance with the provisions of this chapter, the department is
10 authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making
11 a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property
12 of or in the possession of the person filing the return or another person. In determining compliance, the
13 department may use statistical sampling and other sampling techniques consistent with generally accepted
14 auditing standards. The department may also:

- 15 (i) require the attendance of a person having knowledge or information relevant to a return;
16 (ii) compel the production of books, papers, records, or memoranda by the person required to attend;
17 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or
18 may be jeopardized because of delay;
19 (iv) take testimony on matters material to the determination; and
20 (v) administer oaths or affirmations.

21 (5) Pursuant to rules established by the department, returns may be computer-generated and
22 electronically filed."

23
24 **Section 45.** Section 15-68-505, MCA, is amended to read:

25 **"15-68-505. Credit for taxes paid on worthless accounts -- taxes paid if account collected. (1)**
26 Sales ~~taxes~~ tax paid by a person filing a return under 15-68-502 on sales found to be worthless and actually
27 deducted by the person as a bad debt for federal income tax purposes may be credited on a subsequent payment
28 of the tax.

29 (2) Bad debts may be deducted within 12 months after the month in which the bad debt has been
30 charged off for federal income tax purposes. "Charged off for federal income tax purposes" includes the charging

1 off of unpaid balances due on accounts as uncollectible or declaring as uncollectible ~~such the~~ unpaid balance
2 due on accounts in the case of a seller who is not required to file federal income tax returns.

3 (3) If an account is subsequently collected, the sales tax must be paid on the amount collected.

4 (4) A seller may obtain a refund of tax on any amount of bad debt that exceeds the amount of taxable
5 sales within a 12-month period defined by that bad debt.

6 (5) For purposes of computing a bad debt deduction or reporting a payment received on a previously
7 claimed bad debt, any payments made on a debt or account are applied first to interest, service charges, and any
8 other charges and second to the price of the property or service and sales tax on the property or service,
9 proportionally.

10 (6) If filing responsibilities have been assumed by a certified service provider, the certified service
11 provider may claim any bad debt allowance on behalf of the seller.

12 (7) If the books and records of the seller claiming the bad debt allowance support an allocation of the
13 bad debts among several states, the bad debts may be allocated among those states."

14
15 **Section 46.** Section 15-68-510, MCA, is amended to read:

16 **"15-68-510. Vendor allowance.** (1) (a) A person filing a timely return under 15-68-502 may claim a
17 quarterly vendor allowance for each permitted location in the amount of 5% of the tax determined to be payable
18 to the state, not to exceed \$1,000 a quarter.

19 ~~(2)(b)~~ The allowance may be deducted on the return.

20 ~~(3)(c)~~ A person that files a return or payment after the due date for the return or payment may not claim
21 a vendor allowance.

22 (2) In lieu of the vendor allowance provided in subsection (1), certified service providers must receive
23 a monetary allowance determined as provided in the agreement, and the sellers using the certified service
24 providers may not receive a vendor allowance. The vendor allowance must be funded entirely from sales tax
25 proceeds collected by the sellers using the certified service providers.

26 (3) In addition to the vendor allowance provided in subsection (1), a registered seller using a certified
27 automated system must receive a percentage of the tax determined to be payable to the state. The percentage
28 must be determined as provided in the agreement."

29
30 **Section 47.** Section 15-68-801, MCA, is amended to read:

1 **"15-68-801. Administration -- rules. (1)** The department shall:

2 ~~(1)(a)~~ administer and enforce the provisions of this chapter;

3 ~~(2)(b)~~ cause to be prepared and distributed forms and information that may be necessary to administer
4 the provisions of this chapter; and

5 ~~(3)(c)~~ adopt rules that may be necessary or appropriate to administer and enforce the provisions of this
6 chapter.

7 (2) In administering the provisions of this chapter, the department shall, when applicable and not in
8 conflict with Montana law, follow the provisions of the Streamlined Sales and Use Tax Agreement adopted
9 pursuant to [sections 48 through 55]. The department shall report to the revenue and transportation interim
10 committee, provided for in 5-5-227, on:

11 (a) the operation of the Streamlined Sales and Use Tax Agreement and the benefits and costs to the
12 state of its participation; and

13 (b) changes to the Streamlined Sales and Use Tax Agreement that require changes in Montana law for
14 compliance with the agreement."

15
16 NEW SECTION. Section 48. Short title. [Sections 48 through 55] may be cited as the "Uniform Sales
17 and Use Tax Administration Act".

18
19 NEW SECTION. Section 49. Definitions. As used in [sections 48 through 55], the following definitions
20 apply:

21 (1) "Agreement" means the Streamlined Sales and Use Tax Agreement.

22 (2) "Certified automated system" means software certified jointly by the states that are signatories to the
23 agreement to calculate the tax imposed by each jurisdiction on a transaction, to determine the amount of tax to
24 remit to the appropriate state, and to maintain a record of the transaction.

25 (3) "Certified service provider" means an agent certified jointly by the states that are signatories to the
26 agreement to perform all of the seller's sales tax functions.

27 (4) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited
28 liability partnership, corporation, or any other legal entity.

29 (5) "Sales tax" means the sales tax levied under 15-68-102.

30 (6) "Seller" means a person making sales, leases, or rentals of personal property.

(7) "State" means any state of the United States and the District of Columbia.

(8) "Use tax" means the use tax levied under 15-68-102.

NEW SECTION. Section 50. Authority to enter agreement. (1) The department is authorized and directed to enter into the agreement with one or more states to simplify and modernize sales tax and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the agreement, the department is authorized to act jointly with other states that are signatories to the agreement to establish standards for certification of certified service providers and a certified automated system and to establish performance standards for multistate sellers through a multistate central registration system.

(2) The department is further authorized to take other actions reasonably required to implement the provisions of [sections 48 through 55]. Other actions authorized by this section include but are not limited to the adoption of rules and the joint procurement, with other signatory states, of goods and services in furtherance of the agreement.

(3) The department or the department's designee is authorized to represent this state before the other states that are signatories to the agreement.

NEW SECTION. Section 51. Relationship to state law. A provision of the agreement, in whole or in part, does not invalidate or amend any provision of the law of this state. Adoption of the agreement by this state does not amend or modify any law of this state. Implementation of any condition of the agreement within this state, whether adopted before or after this state becomes a signatory to the agreement, must be by the action of this state.

NEW SECTION. Section 52. Agreement requirements. The department may not enter into the agreement unless the agreement requires each state to abide by the following requirements:

(1) The agreement must set restrictions to achieve, over time, more uniform rates in Montana through the following:

(a) limiting the number of state rates;

(b) limiting the application of maximums on the amount of state tax that is due on a transaction; and

(c) limiting the application of thresholds on the application of state tax.

1 (2) The agreement must establish uniform standards for the following:

2 (a) the sourcing of transactions to taxing jurisdictions;

3 (b) the administration of exempt sales;

4 (c) the allowances that a seller may take for bad debts; and

5 (d) sales tax and use tax returns and remittances.

6 (3) The agreement must require states to develop and adopt uniform definitions of sales tax and use tax
7 terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with the
8 uniform definitions.

9 (4) The agreement must provide a central, electronic registration system that allows a seller to register
10 to collect and remit sales taxes and use taxes for all signatory states.

11 (5) The agreement must provide that registration with the multistate central registration system and the
12 collection of sales taxes and use taxes in the signatory states will not be used as a factor in determining whether
13 the seller has nexus with a state for any tax.

14 (6) The agreement must provide for reduction of the burdens of complying with local sales taxes and use
15 taxes through the following:

16 (a) restricting variances between the state and local tax bases;

17 (b) requiring states to administer any sales taxes and use taxes levied by local jurisdictions within the
18 state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds
19 to, or be subject to independent audits from local taxing jurisdictions;

20 (c) restricting the frequency of changes in the local sales tax and use tax rates and setting effective dates
21 for the application of local jurisdictional boundary changes to local sales taxes and use taxes; and

22 (d) providing notice of changes in local sales tax and use tax rates and of changes in the boundaries of
23 local taxing jurisdictions.

24 (7) The agreement must outline any monetary allowances that are to be provided by the states to sellers
25 or certified service providers.

26 (8) The agreement must require each state to certify compliance with the terms of the agreement prior
27 to becoming a signatory and to maintain compliance, under the laws of the state, with all provisions of the
28 agreement while a signatory.

29 (9) The agreement must require each state to adopt a uniform policy for certified service providers that
30 protects the privacy of consumers and maintains the confidentiality of tax information.

(10) The agreement must provide for the appointment of an advisory council of private sector representatives and an advisory council of representatives of states that are not signatory states to consult with in the administration of the agreement.

NEW SECTION. Section 53. Cooperating sovereigns. The agreement is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the signatory states to establish and maintain a cooperative, simplified system for the application and administration of sales taxes and use taxes under the adopted law of each state.

NEW SECTION. Section 54. Limited binding and beneficial effect. (1) The agreement binds and inures only to the benefit of this state and the other signatory states. No person other than a signatory state is an intended beneficiary of the agreement. Any benefit to a person other than a signatory state is established by the law of this state and the other signatory states and not by the terms of the agreement.

(2) Consistent with subsection (1), a person has no cause of action or defense under the agreement or by virtue of this state's approval of the agreement. A person may not challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state or any political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.

(3) A law of this state or the application of a law of this state may not be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

NEW SECTION. Section 55. Seller and third-party liability. (1) (a) A certified service provider is the agent of a seller with whom the certified service provider has contracted for the collection and remittance of sales taxes and use taxes. As the seller's agent, the certified service provider is liable for sales tax and use tax due each signatory state on all sales transactions that it processes for the seller, except as set out in this section.

(b) A seller that contracts with a certified service provider is not liable to the state for sales tax or use tax due on transactions processed by the certified service provider unless the seller misrepresents the type of items that it sells or commits fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider.

(c) A seller is subject to audit for transactions not processed by the certified service provider. The

signatory states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(2) A person that provides a certified automated system is responsible for the proper functioning of the certified automated system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

(3) A seller that has a proprietary system for determining the amount of tax due on transactions and that has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

Section 56. Section 17-3-213, MCA, is amended to read:

"17-3-213. Allocation of forest reserve funds and other federal funds -- options provided in federal law. (1) The board of county commissioners in each county shall decide among payment options provided in subsections (2) through (4), as provided in Public Law 106-393, to determine how the forest reserve funds and Public Law 106-393 funds apportioned to each county must be distributed by the county treasurer pursuant to this section.

(2) If a board of county commissioners chooses to receive a payment that is 25% of the revenue derived from national forest system lands, as provided in 16 U.S.C. 500, all funds received must be distributed as provided in subsection (5).

(3) (a) Except as provided in subsection (4), if a county elects to receive the county's full payment under Public Law 106-393, a minimum of 80% up to a maximum of 85% of the county's full payment must be designated by the county for distribution as provided in subsection (5).

(b) The balance not distributed pursuant to subsection (3)(a) may be allocated by the county in accordance with Public Law 106-393.

(4) If a county's full payment is less than \$100,000, the county may elect to distribute up to 100% of the payment as provided in subsection (5).

(5) The total amount designated by a county in accordance with subsection (3)(a) or (4) must be distributed as follows:

(a) to the general road fund, 66 2/3% of the amount designated;

(b) to the following ~~countywide school levies funds~~, 33 1/3% of the amount designated:

(i) ~~county equalization for elementary schools provided for in 20-9-331~~ the state general fund for state equalization aid to the public schools of Montana;

~~(ii) county equalization for high schools provided for in 20-9-333;~~

~~(iii)~~(ii) the county transportation fund provided for in 20-10-146; and

~~(iv)~~(iii) the elementary and high school district retirement fund obligations provided for in 20-9-501.

(6) The apportionment of money to the funds provided for under ~~subsection~~ subsections (5)(b)(ii) and (5)(b)(iii) must be made by the county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills for all the funds. Whenever the total amount of money available for apportionment under subsection (5)(b) is greater than the total requirements of a levy, the excess money and any interest income must be retained in a separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated in subsection (5)(b).

(7) In counties in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share of the 66 2/3% distributed under subsection (5)(b) for the general road fund to the special road districts within the county based upon the percentage that the total area of the road district bears to the total area of the entire county."

Section 57. Section 17-7-301, MCA, is amended to read:

"17-7-301. Authorization to expend during first year of biennium from appropriation for second year -- proposed supplemental appropriation defined -- limit on second-year expenditures. (1) An agency may make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium if authorized by the general appropriations act. An agency that is not authorized in the general appropriations act to make first-year expenditures may be granted spending authorization by the approving authority upon submission and approval of a proposed supplemental appropriation to the approving authority. The proposal submitted to the approving authority must include a plan for reducing expenditures in the second year of the biennium that allows the agency to contain expenditures within appropriations. If the approving authority finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for the first fiscal year of the biennium with all other income will be insufficient for the operation and maintenance of the agency during the year for which the appropriation was made, the approving authority shall, after careful study and examination of the request and upon review of the recommendation for executive branch proposals by the

1 budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

2 (2) The plan for reducing expenditures required by subsection (1) is not required if the proposed
3 supplemental appropriation is:

4 (a) due to an unforeseen and unanticipated emergency for fire suppression;

5 (b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351,
6 and is to complete the state's funding of ~~guaranteed tax base aid~~, transportation aid; or equalization aid to
7 elementary and secondary schools for the current biennium; or

8 (c) requested by the attorney general and:

9 (i) is to pay the costs associated with litigation in which the department of justice is required to provide
10 representation to the state of Montana; or

11 (ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice is
12 responsible for confinement of an arrested person in a detention center.

13 (3) Upon receipt of the recommendation of the legislative finance committee pursuant to 17-7-311, the
14 approving authority may authorize an expenditure during the first fiscal year of the biennium to be made from the
15 appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the approving
16 authority shall require the agency to implement the plan for reducing expenditures in the second year of the
17 biennium that contains agency expenditures within appropriations.

18 (4) The agency may expend the amount authorized by the approving authority only for the purposes
19 specified in the authorization.

20 (5) The approving authority shall report to the next legislature in a special section of the budget the
21 amounts expended as a result of all authorizations granted by the approving authority and shall request that any
22 necessary supplemental appropriation bills be passed.

23 (6) As used in this part, "proposed supplemental appropriation" means an application for authorization
24 to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year
25 of the biennium.

26 (7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the
27 second year of the biennium that, if carried on for the full year, will require a deficiency appropriation, commonly
28 referred to as a "supplemental appropriation".

29 (b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in
30 the second year of the biennium that contains agency expenditures within appropriations. The approving authority

1 is responsible for ensuring the implementation of the plan. If, in the second year of a biennium, mandated
2 expenditures that are required by state or federal law will cause an agency to exceed appropriations or available
3 funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce to the
4 greatest extent possible the expenditures in excess of appropriations or funding. An agency may not transfer
5 funds between fund types in order to implement a plan."

6
7 **NEW SECTION. Section 58. Calculation of classroom payment.** (1) The number of classrooms for
8 each school district is calculated based on the maximum number of students that may be in each classroom
9 according to the accreditation standards and is adjusted as provided in subsection (3). The student-teacher ratio
10 for a classroom is based on the size category for an elementary school district or a high school district as
11 described in subsection (2).

12 (2) (a) The size of an elementary school district is the larger of the current year ANB or the 3-year
13 average ANB calculated as provided in 20-9-311. The size categories are as follows:

14 (i) "E6" means an elementary school district or a K-12 elementary program with less than 41 ANB;

15 (ii) "E5" means an elementary school district or a K-12 elementary program with at least 41 ANB but not
16 more than 150 ANB;

17 (iii) "E4" means an elementary school district or a K-12 elementary program with at least 151 ANB but
18 not more than 400 ANB;

19 (iv) "E3" means an elementary school district or a K-12 elementary program with at least 401 ANB but
20 not more than 850 ANB;

21 (v) "E2" means an elementary school district or a K-12 elementary program with at least 851 ANB but
22 not more than 2,500 ANB; and

23 (vi) "E1" means an elementary school district or a K-12 elementary program with more than 2,500 ANB.

24 (b) The size of a high school district or a K-12 high school program is the larger of the current year ANB
25 or the 3-year average ANB calculated as provided in 20-9-311. The size categories are as follows:

26 (i) "H5" means a high school district or a K-12 high school program with less than 75 ANB;

27 (ii) "H4" means a high school district or a K-12 high school program with at least 75 ANB but not more
28 than 200 ANB;

29 (iii) "H3" means a high school district or a K-12 high school program with at least 201 ANB but not more
30 than 400 ANB;

(iv) "H2" means a high school district or a K-12 high school program with at least 401 ANB but not more than 1,250 ANB; and

(v) "H1" means a high school district or a K-12 high school program with more than 1,250 ANB.

(3) The student-teacher ratios are based on the size categories in subsection (2) and are funded as follows:

(a) E6, 8.6 budgeted ANB per teacher;

(b) E5, 13.5 budgeted ANB per teacher;

(c) E4, 15.4 budgeted ANB per teacher;

(d) E3, 16.6 budgeted ANB per teacher;

(e) E2, 17.9 budgeted ANB per teacher;

(f) E1, 19.0 budgeted ANB per teacher;

(g) H5, 8.5 budgeted ANB per teacher;

(h) H4, 14.4 budgeted ANB per teacher;

(i) H3, 16.6 budgeted ANB per teacher;

(j) H2, 17.0 budgeted ANB per teacher; and

(k) H1, 19.0 budgeted ANB per teacher.

(4) The classroom payment is \$500 per classroom. The state shall pay 80% of the classroom payment.

Section 59. Section 20-3-106, MCA, is amended to read:

"20-3-106. Supervision of schools -- powers and duties. The superintendent of public instruction has the general supervision of the public schools and districts of the state and shall perform the following duties or acts in implementing and enforcing the provisions of this title:

(1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;

(2) issue, renew, or deny teacher certification and emergency authorizations of employment;

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;

(4) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

(5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

(6) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-506;

(7) establish a system of communication for calculating joint district revenue in accordance with the provisions of 20-9-151;

(8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment in accordance with the approval and disbursement provisions of 20-9-166;

(9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

(10) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

(11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance with the provisions of 20-9-313 and 20-9-314;

(12) distribute BASE aid and special education allowable cost payments in support of the BASE funding program in accordance with the provisions of ~~20-9-331, 20-9-333~~, 20-9-342, 20-9-346, 20-9-347, and 20-9-366 through 20-9-369;

(13) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of 20-10-112;

(14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;

(15) authorize the use of federal money for the support of an interlocal cooperative agreement in accordance with the provisions of 20-9-703 and 20-9-704;

(16) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of 20-9-705;

(17) recommend standards of accreditation for all schools to the board of public education and evaluate compliance with the standards and recommend accreditation status of every school to the board of public education in accordance with the provisions of 20-7-101 and 20-7-102;

(18) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of 20-7-113 and 20-7-114;

(19) establish and maintain a library of visual, aural, and other educational media in accordance with the

1 provisions of 20-7-201;

2 (20) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance
3 with the provisions of the textbooks part of this title;

4 (21) as the governing agent and executive officer of the state of Montana for K-12 career and
5 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of
6 20-7-301;

7 (22) supervise and coordinate the conduct of special education in the state in accordance with the
8 provisions of 20-7-403;

9 (23) administer the traffic education program in accordance with the provisions of 20-7-502;

10 (24) administer the school food services program in accordance with the provisions of 20-10-201 through
11 20-10-203;

12 (25) review school building plans and specifications in accordance with the provisions of 20-6-622;

13 (26) provide schools with information and technical assistance for compliance with the student
14 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for
15 the board of public education and the legislature;

16 (27) upon request and in compliance with confidentiality requirements of state and federal law, disclose
17 to interested parties all school district student assessment data for a test required by the board of public
18 education;

19 (28) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369;
20 and

21 (29) perform any other duty prescribed from time to time by this title, any other act of the legislature, or
22 the policies of the board of public education."
23

24 **Section 60.** Section 20-6-702, MCA, is amended to read:

25 **"20-6-702. Funding for K-12 school districts.** (1) Notwithstanding the provisions of subsections (2)
26 through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for
27 high school districts.

28 (2) The number of elected trustees of the K-12 school district must be based on the classification of the
29 attached elementary district under the provisions of 20-3-341 and 20-3-351.

30 (3) Calculations for the following must be made separately for the elementary school program and the

1 high school program of a K-12 school district:

2 (a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in
3 accordance with the provisions of 20-9-311; and

4 (b) ~~the basic county tax for elementary equalization and~~ revenue for the elementary BASE funding
5 program for the district must be determined in accordance with the provisions of 20-9-331, and the ~~basic county~~
6 ~~tax for high school equalization and~~ revenue for the high school BASE funding program for the district must be
7 determined in accordance with 20-9-333; ~~and.~~

8 (c) ~~the guaranteed tax base aid for BASE funding program purposes for a K-12 school district must be~~
9 ~~calculated separately, using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE budget~~
10 ~~levy to be levied for the K-12 school district must be prorated based on the ratio of the BASE funding program~~
11 ~~amounts for elementary school programs to the BASE funding program amounts for high school programs.~~

12 (4) ~~The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school~~
13 ~~district must be calculated and funded as a high school district retirement obligation under the provisions of~~
14 ~~20-9-501.~~

15 (5)(4) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for
16 any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and
17 programs of the district.

18 (6)(5) Tuition for attendance in the K-12 school district must be determined separately for high school
19 pupils and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual
20 expenditures used for calculations in 20-5-323 must be based on an amount prorated between the elementary
21 and high school programs in the appropriate funds of each district in the year prior to the attachment of the
22 districts."

23

24 **Section 61.** Section 20-7-102, MCA, is amended to read:

25 **"20-7-102. Accreditation of schools.** (1) The conditions under which each elementary school, each
26 middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school
27 operates must be reviewed by the superintendent of public instruction to determine compliance with the standards
28 of accreditation. The accreditation status of each school must then be established by the board of public
29 education upon the recommendation of the superintendent of public instruction. Notification of the accreditation
30 status for the applicable school year or years must be given to each district by the superintendent of public

1 instruction.

2 (2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that
3 multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

4 (3) A nonpublic school may, through its governing body, request that the board of public education
5 accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

6 (4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school
7 district or K-12 district elementary program whose 7th and 8th grades are funded as provided in
8 20-9-306(14)(c)(ii)."

9

10 **Section 62.** Section 20-9-141, MCA, is amended to read:

11 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The
12 county superintendent shall compute the levy requirement for each district's general fund on the basis of the
13 following procedure:

14 (a) Determine the funding required for the district's final general fund budget less the sum of direct state
15 aid and the special education allowable cost payment for the district by totaling:

16 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in
17 20-9-303; and

18 (ii) any general fund budget amount adopted by the trustees of the district under the provisions of
19 20-9-308 and 20-9-353.

20 (b) Determine the money available for the reduction of the property tax on the district for the general fund
21 by totaling:

22 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

23 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of the
24 following:

25 (A) interest earned by the investment of general fund cash in accordance with the provisions of
26 20-9-213(4); and

27 (B) any other revenue received during the school fiscal year that may be used to finance the general
28 fund, ~~excluding any guaranteed tax base aid;~~

29 (iii) anticipated oil and natural gas production taxes;

30 (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and

(v) school district block grants distributed under 20-9-630.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement.

(d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(e) by the sum of:

~~—— (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and~~

~~—— (b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.~~

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners on the fourth Monday of August by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703."

Section 63. Section 20-9-212, MCA, is amended to read:

"20-9-212. Duties of county treasurer. The county treasurer of each county:

(1) must receive and shall hold all school money subject to apportionment and keep a separate

1 accounting of its apportionment to the several districts that are entitled to a portion of the money according to the
2 apportionments ordered by the county superintendent or by the superintendent of public instruction. A separate
3 accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized
4 purpose, including:

5 ~~—— (a) the basic county tax for elementary equalization;~~

6 ~~—— (b) the basic county tax for high school equalization;~~

7 ~~—— (c) the county tax in support of the transportation schedules;~~

8 ~~—— (d) the county tax in support of the elementary and high school district retirement obligations; and~~

9 ~~—— (e) any other county tax for schools, including the community colleges; that may be authorized by law~~
10 and levied by the county commissioners.

11 (2) whenever requested, shall notify the county superintendent and the superintendent of public
12 instruction of the amount of county school money on deposit ~~in each of the funds enumerated in subsection (1)~~
13 and the amount of any other school money subject to apportionment and apportion the county and other school
14 money to the districts in accordance with the apportionment ordered by the county superintendent or the
15 superintendent of public instruction;

16 (3) shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

17 (4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or district
18 school money;

19 (5) must receive all revenue collected by and for each district and shall deposit these receipts in the fund
20 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent school
21 taxes must be credited to the same fund and district for which the original taxes were levied.

22 (6) shall send all revenue received for a joint district, part of which is situated in the county, to the county
23 treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3
24 months after that date until the end of the school fiscal year;

25 (7) at the direction of the trustees of a district, shall assist the district in the issuance and sale of tax and
26 revenue anticipation notes as provided in Title 7, chapter 6, part 11;

27 (8) shall register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
28 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of registered
29 warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

30 (9) when directed by the trustees of a district, shall invest the money of the district within 3 working days

1 of the direction;

2 (10) each month, shall give to the trustees of each district an itemized report for each fund maintained
3 by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue
4 received, and the cash balance;

5 (11) shall remit promptly to the department of revenue receipts for the county tax for a
6 vocational-technical program within a unit of the university system when levied by the board of county
7 commissioners under the provisions of 20-25-439;

8 (12) shall invest the money received from ~~the basic county taxes for elementary and high school~~
9 ~~equalization, the county levy in support of the elementary and high school district retirement obligations, and the~~
10 ~~county levy in support of the transportation schedules within 3 working days of receipt~~ authorized specific
11 countywide levies. The money must be invested until the working day before it is required to be distributed to
12 school districts within the county or remitted to the state. Clerks of a school district shall provide a minimum of
13 30 hours' notice in advance of cash demands to meet payrolls, claims, and electronic transfers that are in excess
14 of \$50,000, pursuant to 20-3-325. If a clerk of a district fails to provide the required 30-hour notice, the county
15 treasurer shall assess a fee equal to any charges demanded by the state investment pool or other permissible
16 investment manager for improperly noticed withdrawal of funds. Permissible investments are specified in
17 20-9-213(4). All investment income must be deposited, and credited proportionately, in the funds established to
18 account for the taxes received ~~for the purposes specified in subsections (1)(a) through (1)(d).~~

19 ~~(13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county~~
20 ~~equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned, in~~
21 ~~repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state~~
22 ~~advance must be used as required in 20-9-331(1)(c) and 20-9-333(1)(c)."~~

23
24 **Section 64.** Section 20-9-306, MCA, is amended to read:

25 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
26 definitions apply:

27 (1) "BASE" means base amount for school equity.

28 (2) "BASE aid" means:

29 (a) direct state aid for ~~44.7%~~ 80% of the basic entitlement and ~~44.7%~~ 80% of the total per-ANB
30 entitlement for the general fund budget of a district;

~~(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;~~

~~(e)(b)~~ the total quality educator payment;

~~(d)(c)~~ the total at-risk student payment;

~~(e)(d)~~ the total Indian education for all payment; ~~and~~

~~(f)(e)~~ the total American Indian achievement gap payment; and

(f) 80% of the classroom payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, ~~and 140% of the special education allowable cost payment, and 80% of the classroom payment.~~

~~(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.~~

~~(5)(4)~~ "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through ~~county equalization aid as provided in 20-9-331 and 20-9-333 and~~ state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

~~(6)(5)~~ "Basic entitlement" means:

(a) for each high school district,±

~~—— (i) \$236,552 for fiscal year 2008; and~~

~~—— (ii) \$243,649 for each succeeding fiscal year;~~

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school,±

~~—— (i) \$21,290 for fiscal year 2008;~~

~~—— (ii) \$21,922 for each succeeding fiscal year; and~~

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for kindergarten through grade 6 elementary program;

~~(A) \$21,290 for fiscal year 2008; and~~

~~(B) \$21,922 for each succeeding fiscal year; plus~~

(ii) for an approved and accredited junior high school program, 7th and 8th grade program, or middle school;

~~(A) \$60,275 for fiscal year 2008; and~~

~~(B) \$62,083 for each succeeding fiscal year.~~

~~(7)(6)~~ "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(7) "Classroom payment" means the payment determined pursuant to [section 58].

(8) "Direct state aid" means ~~44.7%~~ 80% of the basic entitlement and ~~44.7%~~ 80% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the classroom payment, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,861 for fiscal year 2008~~ and \$6,037 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~\$4,579 for fiscal year 2008~~ and \$4,716 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of ~~\$4,579 for fiscal year 2008~~ and \$4,716 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,861 for fiscal year 2008~~ and \$6,037 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying ~~\$3,036 for fiscal year 2008~~ and \$3,042 for each succeeding fiscal year times the number of full-time equivalent educators as provided in 20-9-327."

Section 65. Section 20-9-308, MCA, is amended to read:

"20-9-308. BASE budgets and maximum general fund budgets. (1) (a) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district. The trustees of a district may adopt a general fund budget up to the maximum general fund budget or the previous year's general fund budget, whichever is greater.

(b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in state funding for the general fund payments in 20-9-327 through 20-9-330 to the district's previous year's general fund

1 budget.

2 (2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE
3 budget for the district and to increase the over-BASE budget levy to support the general fund budget, the trustees
4 shall submit a proposition to the electors of the district, as provided in 20-9-353.

5 (3) The BASE budget for the district must be financed by the following sources of revenue:

6 (a) state equalization aid, as provided in 20-9-343; ~~including any guaranteed tax base aid for which the~~
7 ~~district may be eligible, as provided in 20-9-366 through 20-9-369;~~

8 ~~(b) county equalization aid, as provided in 20-9-331 and 20-9-333;~~

9 ~~(c) a district levy for support of a school not approved as an isolated school under the provisions of~~
10 ~~20-9-302;~~

11 ~~(d)(b)~~ payments in support of special education programs under the provisions of 20-9-321;

12 ~~(e)(c)~~ nonlevy revenue, as provided in 20-9-141; and

13 ~~(f)(d)~~ a BASE budget levy on the taxable value of all property within the district.

14 (4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all
15 property within the district or other revenue available to the district, as provided in 20-9-141."

16
17 **Section 66.** Section 20-9-331, MCA, is amended to read:

18 **"20-9-331. ~~Basic county tax for elementary equalization and other revenue~~ Revenue for county**
19 **equalization of elementary BASE funding program.** (1) ~~(a) Subject to 15-10-420, the county commissioners~~
20 ~~of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable~~
21 ~~property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529,~~
22 ~~61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of elementary equalization and state BASE funding~~
23 ~~program support. The revenue collected from this levy must be apportioned to the support of the elementary~~
24 ~~BASE funding programs of the school districts in the county and to the state general fund in the following manner:~~
25 ~~———(b) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum~~
26 ~~of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding~~
27 ~~programs of all elementary districts of the county.~~

28 ~~———(c) If the basic levy and other revenue prescribed by this section produce more revenue than is required~~
29 ~~to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the~~
30 ~~department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon~~

1 ~~occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June~~
2 ~~20 of the fiscal year for which the levy has been set.~~

3 (2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue
4 from the following sources must be used for the equalization of the elementary BASE funding program of the
5 county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer
6 in accordance with 20-9-212(1):

7 ~~(a)~~(1) the portion of the federal Taylor Grazing Act funds designated for the elementary county
8 equalization fund under the provisions of 17-3-222;

9 ~~(b)~~(2) the portion of the federal flood control act funds distributed to a county and designated for
10 expenditure for the benefit of the county common schools under the provisions of 17-3-232;

11 ~~(c)~~(3) all money paid into the county treasury as a result of fines for violations of law, except money paid
12 to a justice's court, and the use of which is not otherwise specified by law;

13 ~~(d)~~(4) any money remaining at the end of the immediately preceding school fiscal year in the county
14 treasurer's accounts for the various sources of revenue established or referred to in this section;

15 ~~(e)~~(5) any federal or state money distributed to the county as payment in lieu of property taxation,
16 including federal forest reserve funds allocated under the provisions of 17-3-213;

17 ~~(f)~~(6) gross proceeds taxes from coal under 15-23-703; and

18 ~~(g)~~(7) oil and natural gas production taxes."

19
20 **Section 67.** Section 20-9-332, MCA, is amended to read:

21 **"20-9-332. Fines and penalties proceeds for elementary county equalization .** All fines and penalties
22 collected under the provisions of this title, except those collected by a justice's court, must be paid into the
23 elementary county equalization fund as provided by 20-9-331~~(2)(c)~~. In order to implement this section and any
24 other provision of law requiring the deposit of fines in the elementary county equalization fund, a report must be
25 made to the county superintendent of the county, at the close of each term, by the clerk of each district court,
26 reporting all fines imposed and collected during the term and indicating the type of violation and the date of
27 collection."

28
29 **Section 68.** Section 20-9-333, MCA, is amended to read:

30 **"20-9-333. ~~Basic county tax for high school equalization and other revenue~~ Revenue for county**

equalization of high school BASE funding program. ~~(1) (a) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of high school equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the BASE funding programs of high school districts in the county and to the state general fund in the following manner:~~

~~———— (b) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school tuition obligation and the total of the BASE funding programs of all high school districts of the county.~~

~~———— (c) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.~~

(2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for the equalization of the high school BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

~~(a)~~ (1) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

~~(b)~~ (2) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

~~(c)~~ (3) gross proceeds taxes from coal under 15-23-703; and

~~(d)~~ (4) oil and natural gas production taxes."

Section 69. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means revenue as required in this section for:

(a) distribution to the public schools for ~~guaranteed tax base aid~~, BASE aid, state reimbursement for school facilities, and grants for school technology purchases; and

(b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

(2) The superintendent of public instruction may spend throughout the biennium funds appropriated for the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, negotiated payments authorized under 20-7-420(3), and school technology purchases.

~~(3) From July 1, 2001, through June 30, 2003, the following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:~~

~~—— (a) interest and income money described in 20-9-341 and 20-9-342; and~~

~~—— (b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342.~~

~~(4)(3)~~ Beginning July 1, 2003, the The following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

(a) (i) subject to subsection ~~(4)(a)(ii)~~ (3)(a)(ii), interest and income money described in 20-9-341 and 20-9-342; and

(ii) an amount of money equal to the income money attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year, which is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342."

Section 70. Section 20-9-344, MCA, is amended to read:

"20-9-344. Duties of board of public education for distribution of BASE aid. (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees that it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the

1 distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution
2 to any district on account of any difference that may occur during the school fiscal year between budgeted and
3 actual receipts from any other source of school revenue.

4 (2) The board of public education may order the superintendent of public instruction to withhold
5 distribution of BASE aid from a district when the district fails to:

6 (a) submit reports or budgets as required by law or rules adopted by the board of public education; or

7 (b) maintain accredited status.

8 (3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or
9 county equalization money, the district is entitled to a contested case hearing before the board of public
10 education, as provided under the Montana Administrative Procedure Act.

11 (4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return
12 the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed
13 by the superintendent of public instruction.

14 (5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the
15 following schedule:

16 (a) from August to October of the school fiscal year, to each district 10% of:

17 (i) direct state aid;

18 (ii) the total quality educator payment;

19 (iii) the total at-risk student payment;

20 (iv) the total Indian education for all payment; and

21 (v) the total American Indian achievement gap payment;

22 (b) from December to April of the school fiscal year, to each district 10% of:

23 (i) direct state aid;

24 (ii) the total quality educator payment;

25 (iii) the total at-risk student payment;

26 (iv) the total Indian education for all payment; and

27 (v) the total American Indian achievement gap payment; and

28 ~~(c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each~~
29 ~~district or county that has submitted a final budget to the superintendent of public instruction in accordance with~~
30 ~~the provisions of 20-9-134;~~

1 ~~(d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district~~
2 ~~or county; and~~

3 ~~(e)(c)~~ in June of the school fiscal year, the remaining payment to each district of direct state aid, the total
4 quality educator payment, the total at-risk student payment, the total Indian education for all payment, and the
5 total American Indian achievement gap payment.

6 (6) The distribution provided for in subsection (5) must occur by the last working day of each month."
7

8 **Section 71.** Section 20-9-347, MCA, is amended to read:

9 **"20-9-347. Distribution of BASE aid and special education allowable cost payments in support**
10 **of BASE funding program -- exceptions.** (1) The superintendent of public instruction shall:

11 ~~——(a) supply the county treasurer and the county superintendent with a monthly report of the payment of~~
12 ~~BASE aid in support of the BASE funding program of each district of the county;~~

13 ~~——(b) in the manner described in 20-9-344, provide for a state advance to each county in an amount that~~
14 ~~is no less than the amount anticipated to be raised for the elementary and high school county equalization funds~~
15 ~~as provided in 20-9-331 and 20-9-333; and~~

16 ~~——(c) adopt rules to implement the provisions of subsection (1)(b).~~

17 (2) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in
18 20-9-344 for distribution of the BASE aid payments if the distribution will cause a district to register warrants under
19 the provisions of 20-9-212(8).

20 (b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the
21 superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed
22 in 20-9-344 will result in insufficient money available in all funds of the district to make payment of the district's
23 warrants. The county treasurer shall confirm the anticipated deficit. This section may not be construed to
24 authorize the superintendent of public instruction to exceed a district's annual payment for BASE aid.

25 (3) The superintendent of public instruction shall:

26 (a) distribute special education allowable cost payments to districts; and

27 (b) supply the county treasurer and the county superintendent of schools with a report of payments for
28 special education allowable costs to districts of the county."
29

30 **Section 72.** Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in BASE aid. If the money available for BASE aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide ~~the guaranteed tax base aid required under 20-9-366 through 20-9-369~~ and BASE aid support determined under 20-9-347, the superintendent of public instruction shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of BASE aid for the elementary and high school districts for the current biennium."

Section 73. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions Definition. As used in 20-9-366 through 20-9-371, the following definitions apply:

~~———— (1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.~~

~~(2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district, except for property subject to the creation of a new school district under 20-6-326, divided by the sum of the district's current year BASE budget amount less direct state aid and the state special education allowable cost payment.~~

~~(b)(1) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district, except for property subject to the creation of a new school district under 20-6-326, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year total per-ANB entitlement amount.~~

~~(3)(2) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.~~

~~(4) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 193% and divided by the total sum of either~~

1 ~~the state elementary school districts' or the high school districts' current year BASE budget amounts less total~~
2 ~~direct state aid.~~

3 ~~(b)(3)~~ "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for
4 school retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year
5 of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state
6 elementary ANB count or the total state high school ANB amount used to calculate the elementary school
7 districts' and high school districts' current year total per-ANB entitlement amounts."

8
9 **Section 74.** Section 20-9-367, MCA, is amended to read:

10 **"20-9-367. Eligibility to receive guaranteed tax base aid or state advance ~~or reimbursement~~ for**
11 **school facilities.** ~~(1) If the district guaranteed tax base ratio of any elementary or high school district is less than~~
12 ~~the corresponding statewide elementary or high school guaranteed tax base ratio, the district may receive~~
13 ~~guaranteed tax base aid based on the number of mills levied in the district in support of up to 35.3% of the basic~~
14 ~~entitlement, up to 35.3% of the total per-ANB entitlement, and up to 40% of the special education allowable cost~~
15 ~~payment budgeted within the general fund budget.~~

16 ~~(2) If the county retirement mill value per elementary ANB or the county retirement mill value per high~~
17 ~~school ANB is less than the corresponding statewide mill value per elementary ANB or high school ANB, the~~
18 ~~county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the~~
19 ~~retirement fund budgets of the respective elementary or high school districts in the county.~~

20 ~~(3) For the purposes of 20-9-370 and 20-9-371, if the district mill value per elementary ANB or the district~~
21 ~~mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or~~
22 ~~statewide mill value per high school ANB, the district may receive a state advance ~~or reimbursement~~ for school~~
23 ~~facilities in support of the debt service fund."~~

24
25 **Section 75.** Section 20-9-368, MCA, is amended to read:

26 **"20-9-368. Amount of guaranteed tax base aid.** ~~(1) The amount of guaranteed tax base aid per ANB~~
27 ~~that a county may receive in support of the retirement fund budgets of the elementary school districts in the~~
28 ~~county is the difference between the county mill value per elementary ANB and the statewide mill value per~~
29 ~~elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the~~
30 ~~elementary districts in the county.~~

~~———— (2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.~~

~~(3) The amount of guaranteed tax base aid that a district may receive in support of up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted within the general fund budget, and up to 40% of the special education payment is calculated in the following manner:~~

~~———— (a) multiply the sum of the district's BASE budget amount less direct state aid by the corresponding statewide guaranteed tax base ratio;~~

~~———— (b) subtract the taxable valuation of the district from the product obtained in subsection (3)(a); and~~

~~———— (c) divide the remainder by 1,000 to determine the equivalent to the dollar amount of guaranteed tax base aid for each mill levied.~~

~~(4) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."~~

Section 76. Section 20-9-369, MCA, is amended to read:

"20-9-369. Duties of superintendent of public instruction and department of revenue. (1) The superintendent of public instruction shall administer the distribution of guaranteed tax base aid by:

~~———— (a) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide and district guaranteed tax base ratios and, by May 1 of each year, with the final statewide and district guaranteed tax base ratios, for use in calculating the guaranteed tax base aid available for the ensuing school fiscal year;~~

~~(b)(a) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide, county, and district mill values per ANB and, by May 1 of each year, with the final statewide, county, and district mill values per ANB, for use in calculating the guaranteed tax base aid and state advance and reimbursement for school facilities available to counties and districts for the ensuing school fiscal year;~~

~~(e)(b) requiring each county and district that qualifies and applies for guaranteed tax base aid to report to the county superintendent all budget and accounting information required to administer the guaranteed tax~~

1 base aid;

2 ~~(d)~~(c) keeping a record of the complete data concerning appropriations available for guaranteed tax base
3 aid and the entitlements for the aid of the counties and districts that qualify;

4 ~~(e)~~(d) distributing the guaranteed tax base aid entitlement to each qualified county or district from the
5 appropriations for that purpose.

6 (2) The superintendent shall adopt rules necessary to implement 20-9-366 through 20-9-369.

7 (3) The department of revenue shall provide the superintendent of public instruction by December 1 of
8 each year a final determination of the taxable value of property within each school district and county of the state
9 reported to the department of revenue based on information delivered to the county clerk and recorder as
10 required in 15-10-305.

11 ~~(4) The superintendent of public instruction shall calculate the district and statewide guaranteed tax base~~
12 ~~ratios by applying the prior year's direct state aid payment."~~

13
14 **Section 77.** Section 20-9-439, MCA, is amended to read:

15 **"20-9-439. Computation of net levy requirement for general obligation bonds -- procedure when**
16 **levy inadequate.** Subject to 20-6-326, the following provisions apply:

17 (1) The county superintendent shall compute the levy requirement for each school district's general
18 obligation debt service fund on the basis of the following procedure:

19 (a) Determine the total money available in the debt service fund for the reduction of the property tax on
20 the district by totaling:

21 (i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as
22 provided in 20-9-438;

23 (ii) anticipated interest to be earned by the investment of debt service cash in accordance with the
24 provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

25 (iii) any state advance for school facilities distributed to a qualified district under the provisions of
26 20-9-346, 20-9-370, and 20-9-371;

27 (iv) funds transferred from the impact aid fund established pursuant to 20-9-514 that are authorized by
28 20-9-437(2) to be used to repay the district's bonds; and

29 (v) any other money, including money from federal sources, anticipated by the trustees to be available
30 in the debt service fund during the ensuing school fiscal year from sources such as legally authorized money

1 transfers into the debt service fund or from rental income, ~~excluding any guaranteed tax base aid.~~

2 (b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), from
3 the final budget for the debt service fund as established in 20-9-438.

4 (2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported to the
5 county commissioners on the fourth Monday of August by the county superintendent as the net debt service fund
6 levy requirement for the district, and a levy must be made by the county commissioners in accordance with
7 20-9-142.

8 (3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or
9 series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal
10 becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this
11 section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court
12 of the county in which the school district is located for a writ of mandate to compel the board of county
13 commissioners of the county to make a sufficient levy for payment purposes. If, upon the hearing of the
14 application, it appears to the satisfaction of the court that the board of county commissioners of the county has
15 failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as
16 established in the manner provided in this section, the court shall determine the amount of the deficiency and
17 shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting
18 for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the
19 school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required
20 to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the
21 petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be
22 a charge against the school district or the county."

23
24 **Section 78.** Section 20-9-501, MCA, is amended to read:

25 **"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management
26 board of a cooperative employing personnel who are members of the teachers' retirement system or the public
27 employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal
28 social security system requiring employer contributions shall establish a retirement fund for the purposes of
29 budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's
30 or the cooperative's contribution for each employee who is a member of the teachers' retirement system must

1 be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for
2 each employee who is a member of the public employees' retirement system must be calculated in accordance
3 with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social
4 security system must be paid in accordance with federal law and regulation. The district's or the cooperative's
5 contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title
6 39, chapter 51, part 11.

7 (2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal
8 social security, and unemployment insurance systems from the retirement fund for the following:

9 (i) a district employee whose salary and health-related benefits, if any health-related benefits are
10 provided to the employee, are paid from state or local funding sources;

11 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are
12 provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported
13 solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321,
14 or are paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the
15 medicaid program, pursuant to 53-6-101;

16 (iii) a district employee whose salary and health-related benefits, if any health-related benefits are
17 provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

18 (iv) a district employee whose salary and health-related benefits, if any health-related benefits are
19 provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514.

20 (b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative
21 shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance
22 systems from the funding source that pays the employee's salary.

23 (3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall
24 include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the
25 final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems
26 in accordance with the financial administration provisions of this title.

27 (4) When the final retirement fund budget has been adopted, the county superintendent shall establish
28 the ~~levy~~ funding requirement by:

29 (a) determining the sum of the money available to reduce the retirement fund ~~levy requirement~~
30 requirements by adding:

1 (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal
2 year;

3 (ii) oil and natural gas production taxes;

4 (iii) coal gross proceeds taxes under 15-23-703;

5 (iv) countywide school retirement block grants distributed under 20-9-631;

6 (v) any fund balance available for reappropriation as determined by subtracting the amount of the
7 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal
8 year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating
9 reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must
10 be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund
11 budget.

12 (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school
13 fiscal year; ~~excluding any guaranteed tax base aid.~~

14 (b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the
15 levy funding requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the
16 final retirement fund budget.

17 (5) The county superintendent shall:

18 (a) total the net retirement fund ~~levy~~ requirements separately for all elementary school districts, all high
19 school districts, and all community college districts of the county, including any prorated joint district or special
20 education cooperative agreement levy requirements; and

21 (b) report each ~~levy~~ requirement to the ~~county commissioners on the fourth Monday of August~~
22 superintendent of public instruction as the respective county levy retirement requirements for elementary district,
23 high school district, and community college district retirement funds.

24 ~~(6) The county commissioners shall fix and set the county levy or district levy in accordance with~~
25 ~~20-9-142.~~

26 ~~—— (7) The net retirement fund levy requirement for a joint elementary district or a joint high school district~~
27 ~~must be prorated to each county in which a part of the district is located in the same proportion as the district ANB~~
28 ~~of the joint district is distributed by pupil residence in each county. The county superintendents of the counties~~
29 ~~affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.~~

30 ~~—— (8) The net retirement fund levy requirement for districts that are members of special education~~

~~cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.~~

~~_____ (9) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (5)(a) by the sum of:~~

~~_____ (a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and~~

~~_____ (b) the taxable valuation of the district divided by 1,000.~~

~~_____ (10) The levy for a community college district may be applied only to property within the district.~~

~~(11)(6) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements for county school funds supporting elementary and high school district retirement obligations to the superintendent of public instruction not later than the second Monday in September. The report must be completed on forms supplied by the superintendent of public instruction."~~

Section 79. Section 20-9-620, MCA, is amended to read:

"20-9-620. Definition. (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue" means, except for that portion of revenue described in 20-9-343~~(4)(a)(ii)(3)(a)(ii)~~ and available on or after July 1, 2003, 77-1-607, and 77-1-613, 95% of all revenue from the management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

(2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

Section 80. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenue and net tax levy requirements for district transportation fund budget. Before the second Monday of August, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate for each bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by the district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted in the budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the contingency amount on the budget must be reduced to the limitation amount and used in this determination of the schedule amount; plus

(e) any estimated costs for transporting a child out of district when the child has mandatory approval to attend school in a district outside the district of residence.

(2) (a) The schedule amount determined in subsection (1) or the total transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted, on the following basis:

~~—— (i) one-half is the budgeted state transportation reimbursement; and~~

~~—— (ii) one-half is the~~ The budgeted county transportation fund reimbursement determined under subsection (1) less reductions established in subsection (3) and must be financed in the manner provided in 20-10-146 is the state transportation reimbursement amount.

~~(b) When the district has a sufficient amount of fund balance for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and fund balance reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).~~

~~(c)(b)~~ The county revenue requirement for a joint district, after the application of any district money under

1 ~~subsection (2)(b)~~, must be prorated to each county incorporated by the joint district in the same proportion as the
2 ANB of the joint district is distributed by pupil residence in each county.

3 (3) The total of the money available for the reduction of ~~property tax on the district~~ for the total of the
4 transportation fund must be determined by totaling:

5 (a) anticipated federal money received under the provisions of 20 U.S.C. 7701, et seq., or other
6 anticipated federal money received in lieu of that federal act;

7 (b) anticipated payments from other districts for providing school bus transportation services for the
8 district;

9 (c) anticipated payments from a parent or guardian for providing school bus transportation services for
10 a child;

11 (d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in
12 accordance with the provisions of 20-9-213(4);

13 (e) anticipated revenue from coal gross proceeds under 15-23-703;

14 (f) anticipated oil and natural gas production taxes;

15 (g) anticipated local government severance tax payments for calendar year 1995 production;

16 (h) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through
17 20-5-324;

18 (i) school district block grants distributed under 20-9-630;

19 (j) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that
20 may be used to finance the transportation fund; and

21 (k) any fund balance available for reappropriation as determined by subtracting the amount of the
22 end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal
23 year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may
24 not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the
25 purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

26 ~~(4) The district levy requirement for each district's transportation fund must be computed by:~~

27 ~~—— (a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation~~
28 ~~budget amount; and~~

29 ~~—— (b) subtracting the amount of money available to reduce the property tax on the district, as determined~~
30 ~~in subsection (3), from the amount determined in subsection (4)(a).~~

1 ~~(5) The transportation fund levy requirements determined in subsection (4) for each district must be~~
2 ~~reported to the county commissioners on the fourth Monday of August by the county superintendent as the~~
3 ~~transportation fund levy requirements for the district, and the levy must be made by the county commissioners~~
4 ~~in accordance with 20-9-142."~~

5
6 **Section 81.** Section 20-10-145, MCA, is amended to read:

7 **"20-10-145. State transportation reimbursement.** (1) A district providing school bus transportation or
8 individual transportation in accordance with this title, board of public education transportation policy, and
9 superintendent of public instruction transportation rules must receive a state reimbursement of its transportation
10 expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state
11 transportation reimbursement is ~~one-half of the reimbursement amounts established in 20-10-141 and 20-10-142~~
12 ~~or one-half of the district's transportation fund budget, whichever is smaller, the amount determined under~~
13 20-10-144 and must be computed on the basis of the number of days the transportation services were actually
14 rendered, not to exceed 180 pupil-instruction days. In determining the amount of the state transportation
15 reimbursement, an amount claimed by a district may not be considered for reimbursement unless the amount
16 has been paid in the regular manner provided for the payment of other financial obligations of the district.

17 (2) Requests for the state transportation reimbursement must be made by each district semiannually
18 during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public
19 instruction. The claims for state transportation reimbursements must be routed by the district to the county
20 superintendent, who after reviewing the claims shall send them to the superintendent of public instruction. The
21 superintendent of public instruction shall establish the validity and accuracy of the claims for the state
22 transportation reimbursements by determining compliance with this title, board of public education transportation
23 policy, and the transportation rules of the superintendent of public instruction. After making any necessary
24 adjustments to the claims, the superintendent of public instruction shall order a disbursement from the state
25 money appropriated by the legislature of the state of Montana for the state transportation reimbursement. The
26 payment of all the district's claims within one county must be made to the county treasurer of the county, and the
27 county superintendent shall apportion the payment in accordance with the apportionment order supplied by the
28 superintendent of public instruction.

29 (3) After adopting a budget amendment for the transportation fund in accordance with 20-9-161 through
30 20-9-166, the district shall send to the superintendent of public instruction a copy of each new or amended

individual transportation contract and each new or amended bus route form to which the budget amendment applies. State reimbursement for the additional obligations must be paid as provided in subsection (1)."

Section 82. Section 20-10-146, MCA, is amended to read:

"20-10-146. County transportation reimbursement. (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment, except that:

~~(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;~~

~~(b)(a)~~ when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

~~(c)(b)~~ when county transportation reimbursement is required under the mandatory attendance agreement provisions of 20-5-321.

~~(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:~~

~~—— (a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of 20-5-321;~~

~~—— (b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:~~

~~—— (i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year;~~

~~—— (ii) oil and natural gas production taxes;~~

~~—— (iii) anticipated local government severance tax payments for calendar year 1995 production;~~

~~—— (iv) coal gross proceeds taxes under 15-23-703;~~

~~—— (v) countywide school transportation block grants distributed under 20-9-632;~~

1 ~~—— (vi) any fund balance available for reappropriation from the end-of-the-year fund balance in the county~~
2 ~~transportation fund;~~

3 ~~—— (vii) federal forest reserve funds allocated under the provisions of 17-3-213; and~~

4 ~~—— (viii) other revenue anticipated that may be realized in the county transportation fund during the ensuing~~
5 ~~school fiscal year; and~~

6 ~~—— (c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement~~
7 ~~from the county transportation net levy requirement.~~

8 ~~—— (3) The net levy requirement determined in subsection (2)(c) must be reported to the county~~
9 ~~commissioners on the fourth Monday of August by the county superintendent, and a levy must be set by the~~
10 ~~county commissioners in accordance with 20-9-142.~~

11 ~~—— (4) The county superintendent of each county shall submit a report of the revenue amounts used to~~
12 ~~establish the levy requirements to the superintendent of public instruction not later than the second Monday in~~
13 ~~September. The report must be completed on forms supplied by the superintendent of public instruction.~~

14 ~~(5)(2)~~ The county superintendent shall apportion the county transportation reimbursement from the
15 proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make
16 the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation
17 reimbursement payments."

18
19 **Section 83.** Section 90-6-309, MCA, is amended to read:

20 **"90-6-309. Tax prepayment -- large-scale mineral development.** (1) After permission to commence
21 operation is granted by the appropriate governmental agency, and upon request of the governing body of a
22 county in which a facility is to be located, a person intending to construct or locate a large-scale mineral
23 development in this state shall prepay property taxes as specified in the impact plan. This prepayment ~~shall~~
24 ~~exclude~~ excludes the 6-mill university levy established under 20-25-423 ~~and may exclude the mandatory county~~
25 ~~levies for the school BASE funding program established in 20-9-331 and 20-9-333.~~

26 (2) The person who is to prepay under this section is not obligated to prepay the entire amount
27 established in subsection (1) at one time. Upon request of the governing body of an affected local government
28 unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

29 (3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an
30 appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as

1 needed for expenditures created by the impacts of the large-scale mineral development.

2 (4) When the mineral development facilities are completed and assessed by the department of revenue,
3 they are subject during the first 3 years and thereafter to taxation as all other property similarly situated, except
4 that in each year after the start of production, the local government unit that received a property tax prepayment
5 shall provide for repayment of prepaid property taxes in accordance with subsection (5).

6 (5) A local government unit that received all or a portion of the property tax prepayment under this
7 section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year may not,
8 however, exceed the tax obligation of the developer for that year, and the time period for tax crediting is limited
9 to the productive life of the mining operation."

10
11 **Section 84.** Section 90-6-403, MCA, is amended to read:

12 **"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain**
13 **taxable valuation.** (1) When an impact plan for a large-scale mineral development approved pursuant to
14 90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected
15 local government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this
16 section, the increase in taxable valuation of the mineral development that occurs after the issuance and validation
17 of a permit under 82-4-335 is not subject to the usual application of county and school district property tax mill
18 levies. This increase in taxable valuation must be allocated to local government units as provided in 90-6-404.
19 The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-420 and the application
20 of property tax mill levies in the local government unit to which it is allocated. The increase in taxable valuation
21 allocated to the local government unit is considered newly taxable property in the recipient local government unit
22 as provided in 15-10-420.

23 (2) Subject to 15-10-420, the total taxable valuation of a large-scale mineral development remains
24 subject to the statewide mill levies ~~and basic county levies for elementary and high school BASE funding~~
25 ~~programs as provided in 20-9-331 and 20-9-333.~~

26 (3) The provisions of subsection (1) remain in effect until the large-scale mineral development ceases
27 operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the board."

28
29 **NEW SECTION. Section 85. Repealer.** Section 20-9-360, MCA, is repealed.

NEW SECTION. Section 86. Codification instruction. (1) [Sections 13, 15, 18 through 26, and 28 through 39] are intended to be codified as an integral part of Title 15, chapter 68, and the provisions of Title 15, chapter 68, apply to [sections 13, 15, 18 through 26, and 28 through 39].

(2) [Sections 48 through 55] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 48 through 55].

(3) [Section 58] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 58].

NEW SECTION. Section 87. Submission to electorate. This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2010 by printing on the ballot the full title of this act and the following:

☐ FOR adopting a statewide general sales and use tax to replace statewide school property taxes.

☐ AGAINST adopting a statewide general sales and use tax to replace statewide school property taxes.

NEW SECTION. Section 88. Effective dates. If approved by the electorate:

(1) [sections 10 through 55 and this section] are effective January 1, 2011; and

(2) [sections 1 through 9 and 56 through 86] are effective July 1, 2012.

NEW SECTION. Section 89. Applicability. (1) [Sections 10 through 55] apply to goods and services sold or used after July 1, 2011.

(2) [Sections 1 through 9 and 56 through 85] apply to tax years beginning after December 31, 2012.

- END -